

8/31/98

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 98-CR-054-001-H

TERRELL VONESS BELL
Defendant.**JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)**FILED**
AUG 26 1998
Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, TERRELL VONESS BELL, was represented by William Lunn.

On motion of the United States the court has dismissed Count 1 of the Information.

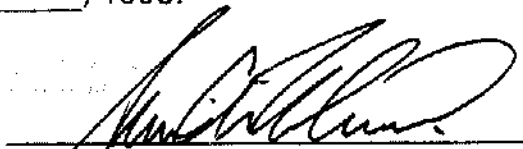
The defendant pleaded guilty to Count 2 of the Information, May 27, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 924(c)	Knowingly Used and Carried a Firearm During and in Relation to a Crime of Violence	2/26/98	2

As pronounced on August 21, 1998, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 2 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of AUGUST, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 506-15-8731

Defendant's Date of Birth: 12/12/66

Defendant's residence and mailing address: 4355 N. Garrison Avenue, Tulsa OK 74106

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Defendant: TERRELL VONESS BELL
Case Number: 98-CR-054-001-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: TERRELL VONESS BELL
Case Number: 98-CR-054-001-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: TERRELL VONESS BELL
Case Number: 98-CR-054-001-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 1,000, as to Count 2. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: TERRELL VONESS BELL
Case Number: 98-CR-054-001-H

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$7,194.03.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Commercial Federal Bank 777 N.W. Grand Blvd., Suite 650 Oklahoma City, Oklahoma Attn: Deborah Desmond	\$7,194.03

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: TERRELL VONESS BELL
Case Number: 98-CR-054-001-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except that Paragraph 45 will change to: Evoid Sanders currently resides in Claremore, Oklahoma, and Sammie Sanders passed away in 1986 from cancer. The sentence about not having contact with his mother is stricken, and the paragraph shall further read "the defendant has lived in the Tulsa area for the past two years". In the identifying data section, there should be no aliases listed.

Guideline Range Determined by the Court:

Total Offense Level:	n/a
Criminal History Category:	III
Imprisonment Range:	60 months
Supervised Release Range:	3 years
Fine Range:	\$ 0 to \$ 250,000
Restitution:	\$ 7,194.03

The sentence is within the guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the guidelines.

BJs

DATE 8/31/98UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-077-001-H

GREG PAUL ALLEVA
Defendant.**FILED**

AUG 26 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987) Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, GREG PAUL ALLEVA, was represented by Allen Smallwood.

On motion of the United States the court has dismissed Count 2 of the Indictment.

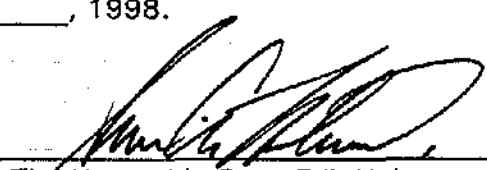
The defendant pleaded guilty to Count 1 of the Indictment, October 10, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
6 USC 5861(d)	Unlawful Possession of an Unauthorized Firearm, an Explosive Device	2/6/97	1
18 USC 2	Aiding and Abetting		

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 460-78-5596

Defendant's Date of Birth: May 20, 1946

Defendant's residence and mailing address: 11448 S. 99th E. Avenue, Bixby OK 74008

Defendant: GREG PAUL ALLEVA
Case Number: 97-CR-077-001-H

PROBATION

The defendant is hereby placed on probation for a term of five (5) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall participate in a program of family and/or individual counseling, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Officer.
4. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.
6. The Court suspends the requirements for mandatory urine screening as dictated by 18 USC § 3608, but specifically retains the probation officer's authority to administer such tests for cause as permitted by the standard conditions of supervision.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: GREG PAUL ALLEVA
Case Number: 97-CR-077-001-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 2,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: GREG PAUL ALLEVA
Case Number: 97-CR-077-001-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	17
Criminal History Category:	I
Imprisonment Range:	24 months to 30 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 5,000 to \$ 50,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

A term of probation is imposed pursuant to the terms of a Rule 11(e)(1)(C) plea agreement.

BTJ

ENTERED ON DOCKET

DATE 8/31/98

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-077-002-H

FILED

AUG 26 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURTDONA DIANE ALLEVA
Defendant.**JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)

The defendant, DONA DIANE ALLEVA, was represented by William Moss.

The defendant pleaded guilty to Count 1 of the Indictment, October 10, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 USC 5861(d)	Unlawful Possession of a Firearm, an Explosive Device	2/6/97	1
18 USC 2	Aiding and Abetting		

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 460-92-8330

Defendant's Date of Birth: 10/10/53

Defendant's residence and mailing address: 11448 S. 99th E. Avenue, Bixby OK 74008

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Defendant: DONA DIANE ALLEVA
Case Number: 97-CR-077-002-H

PROBATION

The defendant is hereby placed on probation for a term of five (5) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall participate in a program of family and/or individual counseling, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Officer.
4. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

The Court suspends the requirements for mandatory urine screening as dictated by 18 USC § 3608, but specifically retains the probation officer's authority to administer such tests for cause as permitted by the standard conditions of supervision.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 8) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 9) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 10) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 11) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 12) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 13) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: DONA DIANE ALLEVA
Case Number: 97-CR-077-002-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 2,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: DONA DIANE ALLEVA
Case Number: 97-CR-077-002-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	17
Criminal History Category:	1
Imprisonment Range:	24 months to 30 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 5,000 to \$ 50,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

A term of probation is imposed pursuant to the terms of a Rule 11(e)(1)(C) plea agreement.

BJS

UNITED STATES DISTRICT COURT **FILED**

Northern District of Oklahoma

AUG 28 1998

UNITED STATES OF AMERICA

v.

Case Number 97-CR-128-00 Phil Lombardi, Clerk
U.S. DISTRICT COURTLARRY WAYNE BARNES
Defendant.

ENTERED ON DOCKET

DATE 8-31-98

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

The defendant, LARRY WAYNE BARNES, was represented by Kent Hudson.

On motion of the United States the court has dismissed Counts 2 & 3 of the Indictment.

The defendant pleaded guilty to Count 1 of the Indictment, May 26, 1998. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 371	Conspiracy to Travel Interstate to Aid in Racketeering Enterprise	1-18-97	1

As pronounced on August 26, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 28th day of August, 1998.

Michael Burrage
The Honorable Michael Burrage
United States District Judge

Defendant's SSN: 448-50-4324

Defendant's Date of Birth: 7-3-50

Defendant's residence and mailing address: 7116 E. Newton Street, Tulsa OK

United States District Court)
Northern District of Oklahoma) SSI hereby certify that the foregoing
is a true copy of the original on file
in this court.

Phil Lombardi, Clerk

By *Rosanne J. Miller*
Deputy

Defendant: LARRY WAYNE BARNES
Case Number: 97-CR-128-001-BU

PROBATION

The defendant is hereby placed on probation for a term of two (2) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: LARRY WAYNE BARNES
Case Number: 97-CR-128-001-BU

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 250, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: LARRY WAYNE BARNES
Case Number: 97-CR-128-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	4
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 250 to \$ 5,000
Restitution:	\$ n/a

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILEDAUG 28 1998 *me*

UNITED STATES OF AMERICA

v.

Case Number 96-CR-081-002-89

Phil Lombardi, Clerk
U.S. DISTRICT COURTMICHAEL W. ROBERTS
Defendant.

ENTERED ON DOCKET

DATE 8-31-98

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

The defendant, MICHAEL W. ROBERTS, was represented by Reuben Davis.

The defendant pleaded guilty to Counts 1, 2 & 3 of the Information, August 2, 1996. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 371	Conspiracy	9-14-95	1
18 USC 1955 & 2	Illegal Gambling & Aiding and Abetting	9-14-95	2
18 USC 1511	Obstruction of Justice	9-14-95	3

As pronounced on August 26, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 150, for Counts 1, 2 & 3 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 28th day of August, 1998.

Michael Burrage
 The Honorable Michael Burrage
 United States District Judge

Defendant's SSN: 500-74-2115

Defendant's Date of Birth: 01-26-62

Defendant's residence and mailing address: 702 N. College, Neosho MO 64850

United States District Court)
Northern District of Oklahoma) SSI hereby certify that the foregoing
is a true copy of the original on file
in this court.

Phil Lombardi, Clerk

By *Rosanne Smiles*
Deputy

Defendant: MICHAEL W. ROBERTS

Case Number: 96-CR-081-002-BU

PROBATION

The defendant is hereby placed on probation for a term of five (5) years, as to each count, said counts to run concurrently, each with the other.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
4. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 7 days of sentencing date. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: MICHAEL W. ROBERTS
Case Number: 96-CR-081-002-BU

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 3,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: MICHAEL W. ROBERTS
Case Number: 96-CR-081-002-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	12	
Criminal History Category:	I	
Imprisonment Range:	10 months to 16 months	Cts. 1, 2 & 3
Supervised Release Range:	2 to 3 years	Cts. 1, 2 & 3
Fine Range:	\$ 3,000 to \$ 30,000	Cts. 1, 2 & 3
Restitution:	\$ n/a	

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 28 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 98-CR-115-001-BU

DAVID RAGOONANAN
Defendant.

ENTERED ON DOCKET

DATE 8-31-98

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, DAVID RAGOONANAN, was represented by Stephen Knorr.

On motion of the United States the court has dismissed Count 1 of the Indictment.

The defendant pleaded guilty to Count 2 of the Indictment, July 29, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1028(a)(5)	Interstate Production and Transfer of Document - Making Implement	5/26/98	2

As pronounced on August 26, 1998, the defendant is sentenced as provided in pages 2 through 3 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 2 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 28 day of August, 1998.

United States District Court) SS
 Northern District of Oklahoma)

I hereby certify that the foregoing
 is a true copy of the original on file
 in this court.

Phil Lombardi, Clerk

By Resamant J. Miller
 Deputy

Michael Burrage
 The Honorable Michael Burrage
 United States District Judge

Defendant's SSN: None

Defendant's Date of Birth: 8-19-71

Defendant's residence and mailing address: c/o Tulsa County Jail, 500 S. Denver, Tulsa OK 74103

Defendant: DAVID RAGOONANAN
Case Number: 98-CR-115-001-BU

PROBATION

The defendant is hereby placed on probation for a term of three (3) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
4. As a condition of probation, you are to be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. §§1101-1524. It is a further condition of probation, if ordered deported, you shall remain outside the United States until termination of the term of probation. If released on bond by the INS, you shall report to the U.S. Probation Office in the district to which you are released within 48 hours of your release. If you are deported, and subsequently reenter the United States within three years of this date, you shall report to the nearest U.S. Probation Office within 48 hours of reentering the United States. Should you serve any portion of the probation term within the United States, you shall abide by the conditions ordered.
5. You are prohibited from accepting any employment until such time as you are able to provide proof of status as a legal alien.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: DAVID RAGOONANAN
Case Number: 98-CR-115-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	6
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 250 to \$ 5,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

JS

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-001-H ✓

REMEGEO CARRILLO
Defendant.**FILED**

AUG 26 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, REMEGEO CARRILLO, was represented by Charles Whitman.

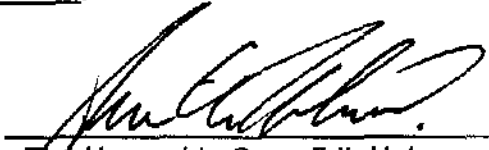
The defendant pleaded guilty to Count 1 of the Superseding Indictment, May 8, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 846, 841(a)(1) & (b)(1)(A)(iii)	Conspiracy to Possess With Intent to Distribute Methamphetamine	2/13/97	1

As pronounced on August 14, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: None

Defendant's Date of Birth: 8/25/65

Defendant's residence and mailing address: Tulsa County Jail, 500 S. Denver, Tulsa OK 74103

85

Defendant: REMEGEO CARRILLO
Case Number: 97-CR-183-001-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 156 months.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the defendant to an institution which provides a Comprehensive Substance Abuse Treatment Program and that the defendant be incarcerated at a Bureau of Prisons facility as close as possible to Tulsa, Oklahoma.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: REMEGEO CARRILLO
Case Number: 97-CR-183-001-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 4) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: REMEGEO CARRILLO
Case Number: 97-CR-183-001-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 5,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: REMEGEO CARRILLO
Case Number: 97-CR-183-001-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	35
Criminal History Category:	II
Imprisonment Range:	188 months to 235 months
Supervised Release Range:	5 years
Fine Range:	\$ 20,000 to \$ 4,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the government upon motion of the government, as a result of the defendant's substantial assistance.

BTJ

8/28/98

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-004-H

KENNETH HERNDON
Defendant.**FILED**

AUG 26 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, KENNETH HERNDON, was represented by Roy W. "Bud" Byars.

On motion of the United States the court has dismissed Counts 2 & 3 of the Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Superseding Indictment, May 8, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
1 USC 846, 841(a)(1) & 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute Methamphetamine	2/13/97	1

As pronounced on August 14, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.


The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 440-62-7284

Defendant's Date of Birth: 8/24/56

Defendant's mailing address: PO Box 1885, Tahlequah OK 74465-1885

Defendant's residence address: Tulsa County Jail, 500 S. Denver, Tulsa OK 74103

84

Defendant: KENNETH HERNDON
Case Number: 97-CR-183-004-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 216 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to a facility which provides Intensive Substance Abuse Treatment and that the defendant be placed in a facility in Oklahoma, or as close to Oklahoma as possible.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: KENNETH HERNDON
Case Number: 97-CR-183-004-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: KENNETH HERNDON
Case Number: 97-CR-183-004-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 5,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: KENNETH HERNDON
Case Number: 97-CR-183-004-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	37
Criminal History Category:	I
Imprisonment Range:	210 months to 262 months
Supervised Release Range:	5 years
Fine Range:	\$ 25,000 to \$ 1,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s): a sentence at the low end of the range was selected because this the defendant's first criminal conviction or record.

BJS

ENTERED ON DOCKET

DATE 8/28/98UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-002-H

ROBERT LEE SEEVER
Defendant.**FILED**

AUG 26 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT**JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)

The defendant, ROBERT LEE SEEVER, was represented by Brad Taylor.

The defendant pleaded guilty to Count 1 of the Superseding Indictment, May 14, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846, 841(a)(1) & 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute Methamphetamine & Amphetamine	2/13/97	1

As pronounced on August 14, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 561-50-0520

Defendant's Date of Birth: 10-08-39

Defendant's residence address: c/o US Marshals Service, 333 W. 4th, 4th Floor, Tulsa OK 74103

Defendant's mailing address: 3520 Melgran Avenue, Modesto CA 95356

Defendant: ROBERT LEE SEEVER
Case Number: 97-CR-183-002-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 150 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to a prison in California and to an Intensive Substance Abuse Treatment Program.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: ROBERT LEE SEEVER
Case Number: 97-CR-183-002-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: ROBERT LEE SEEVER
Case Number: 97-CR-183-002-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 10,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: ROBERT LEE SEEVER
Case Number: 97-CR-183-002-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	37
Criminal History Category:	I
Imprisonment Range:	210 months to 262 months
Supervised Release Range:	5 years
Fine Range:	\$ 20,000 to \$ 4,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

BTJ

ENTERED ON DOCKET

DATE 8/28/98UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-007-H

ROBERT JAMES
Defendant.**FILED**

AUG 26 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, ROBERT JAMES, was represented by Richard D. White Jr.

On motion of the United States the court has dismissed Count 1 of the Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Information, May 14, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 843(b)	Use of Telephone in Facilitating the Distribution of a Controlled Substance	12/31/96	1

As pronounced on August 20, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of August, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 448-70-2418

Defendant's Date of Birth: 9/12/64

Defendant's residence and mailing address: Howard McLead Correctional Center, H.C. 82, Box 812, Atoka
OK 74525

Defendant: ROBERT JAMES
Case Number: 97-CR-183-007-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 48 months, as to Count 1, said term to run concurrently with the defendant's imprisonment in Tulsa County Case CRF 96-3706.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the Oklahoma Department of Corrections to be the place of service of this sentence.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: ROBERT JAMES
Case Number: 97-CR-183-007-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of one (1) year.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: ROBERT JAMES
Case Number: 97-CR-183-007-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 2,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: ROBERT JAMES
Case Number: 97-CR-183-007-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	29
Criminal History Category:	IV
Imprisonment Range:	48 months
Supervised Release Range:	1 year
Fine Range:	\$ 15,000 to \$ 150,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BJJ

ENTERED ON DOCKET

DATE

8/28/98

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-005-H

BRIAN SCHMIDT
Defendant.**FILED**

AUG 26 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, BRIAN SCHMIDT, was represented by C.W. Hack.

The defendant pleaded guilty to Count 1 of the Superseding Indictment, May 8, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846, 841(a)(1) & 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute Methamphetamine	2/13/97	1

As pronounced on August 14, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of AUGUST, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 478-70-6851

Defendant's Date of Birth: 6/29/58

Defendant's mailing address: 3 North 48 West Avenue, Tulsa OK 74127

Defendant's residence address: Tulsa County Jail, 500 S. Denver, Tulsa OK 74103

97

Defendant: BRIAN SCHMIDT
Case Number: 97-CR-183-005-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 172 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be placed in a facility where he may participate in the Intensive Substance Abuse Treatment Program.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: BRIAN SCHMIDT
Case Number: 97-CR-183-005-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: BRIAN SCHMIDT
Case Number: 97-CR-183-005-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 5,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: BRIAN SCHMIDT
Case Number: 97-CR-183-005-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	35
Criminal History Category:	VI
Imprisonment Range:	292 months to 365 months
Supervised Release Range:	5 years
Fine Range:	\$ 20,000 to \$ 4,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

DATE 8/28/98 *cw*

- UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-183-009-H ✓

FILED *DA*

AUG 26 1998

DERRICK PATRICK PICKARD
Defendant.Phil Lombardi, Clerk
U.S. DISTRICT COURT

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, DERRICK PATRICK PICKARD, was represented by Jack Short.

On motion of the United States the court has dismissed Count 1 of the Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Information, May 8, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
8 USC 4	Misprision of a Felony	7/95	1

As pronounced on August 14, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 25TH day of AUGUST, 1998.


The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 440-86-8696

Defendant's Date of Birth: 5/11/71

Defendant's residence and mailing address: 2164 South 99 East Avenue, Apt. D, Tulsa OK 74129

gle

Defendant: DERRICK PATRICK PICKARD
Case Number: 97-CR-183-009-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 27 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to the Intensive Confinement Center Program at Lewisburg, Pennsylvania.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 6:00 p.m. on September 14, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: DERRICK PATRICK PICKARD
Case Number: 97-CR-183-009-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of twelve (12) months.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: DERRICK PATRICK PICKARD
Case Number: 97-CR-183-009-H

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 5,000, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: DERRICK PATRICK PICKARD
Case Number: 97-CR-183-009-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	16
Criminal History Category:	III
Imprisonment Range:	27 months to 33 months
Supervised Release Range:	1 year
Fine Range:	\$ 5,000 to \$ 50,000
Restitution:	\$ n/a

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 25 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

RANDY WARD aka
Randy Dale Stewart aka "D",

Defendant.

No. 98-CR-21-C⁰⁴⁻

ENTERED ON DOCKET

DATE AUG 26 1998

AGREED ORDER

The Court, having considered the motion for agreed order of the United States and of Defendant Randall Gene Ward (SSN 615-16-4331) orders:

1. The warrant issued for the arrest of Randy Ward aka Randy Dale Stewart aka "D" was executed in error with the misidentification and arrest of Randall Gene Ward, SSN: (615-16-4331). Such warrant is recalled and canceled.

2. Randall Gene Ward (SSN: 615-16-4331) is dismissed from this case with prejudice. The indictment as it pertains to Randy Ward aka Randy Dale Stewart aka "D" remains in full force and effect.

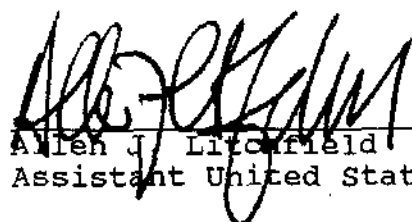
3. A new warrant for the arrest of Randall Ward aka Randy Dale Stewart aka "D", whose Social Security Number is not 615-16-4331, shall be issued, with this information printed thereon.

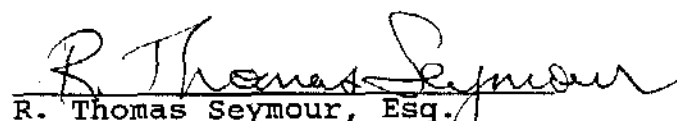
4. The bond of Randall Gene Ward, (SSN: 615-16-4331), is exonerated and all conditions of release are hereby voided.

5. The Federal Bureau of Investigation and all other federal law enforcement agencies are ordered to take all reasonable steps

to delete from any computer data banks accessible by state, local or other federal entities, particularly NCIC and NADDIS, all reference to the arrest or indictment of Randall Gene Ward, SSN: 615-16-4331 in this case.


H. DADE COOK
SENIOR U.S. DISTRICT JUDGE


Allen J. Litchfield
Assistant United States Attorney


R. Thomas Seymour, Esq.
Attorney for Randy Ward
(SSN:615-16-4331)

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

AUG 25 1998

UNITED STATES OF AMERICA

v.

Case Number 97-CR-171-012-C

Phil Lombardi, Clerk
U.S. DISTRICT COURT

CYNTHIA RENEE MOORE
 Defendant.

ENTERED ON DOCKET

DATE 8/25/98

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

The defendant, CYNTHIA RENEE MOORE, was represented by William D. Lunn.

On motion of the United States the court has dismissed Count 1 of the Second Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Information, April 22, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 843(a)(b) & (d)(2)	Possession of Chemicals Which May Be Used to Manufacture a Controlled Substance	5/31/96	1

As pronounced on August 13, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24 day of Aug, 1998.


 The Honorable H. Dale Cook
 United States District Judge

Defendant's SSN: 443-68-1300

Defendant's Date of Birth: 6/18/59

Defendant's residence and mailing address: Tulsa County Jail, 500 S. Denver,

United States District Court }
 Northern District of Oklahoma } ss
 I hereby certify that the foregoing
 is a true copy of the original on file
 in this court. OK 74103

Phil Lombardi, Clerk

By 
 Deputy

Defendant: CYNTHIA RENEE MOORE
Case Number: 97-CR-171-012-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 48 months, as to Count 1. Said term to run concurrently with Creek County cases CF-97-133B, CF-97-134B, and CF-97-180B, and Tulsa County case CF-95-6025.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: CYNTHIA RENEE MOORE
Case Number: 97-CR-171-012-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: CYNTHIA RENEE MOORE
Case Number: 97-CR-171-012-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	25
Criminal History Category:	IV
Imprisonment Range:	84 months to 105 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 12,500 to \$ 30,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

BJ

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

FILED

AUG 25 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 97-CR-171-009-C

ENTERED ON DOCKET

DEBBIE K. BRADLEY
Defendant.DATE 8/25/98

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

The defendant, DEBBIE K. BRADLEY, was represented by Stanley D. Monroe.

On motion of the United States the court has dismissed Count 1 of the Second Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Information, April 22, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 843(a)(6) & (d)(2)	Possession of Chemical Used to Manufacture Methamphetamine	5/31/96	1

As pronounced on August 13, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24 day of Aug, 1998.



The Honorable H. Dale Cook
United States District Judge

Defendant's SSN: 440-74-1327

Defendant's Date of Birth: 6/11/63

Defendant's residence and mailing address: Tulsa County Jail, 500 S. Denver, Tulsa, Oklahoma 74103

United States District Court
Northern District of Oklahoma } ss
I hereby certify that the foregoing
is a true copy of the original on file
in this Court. 74103

Phil Lombardi, Clerk

By Christina M. Lombardi
Clerk

Defendant: DEBBIE K. BRADLEY
Case Number: 97-CR-171-009-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 63 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be placed in the Intensive Substance Abuse Treatment Program.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: DEBBIE K. BRADLEY
Case Number: 97-CR-171-009-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: DEBBIE K. BRADLEY
Case Number: 97-CR-171-009-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	23
Criminal History Category:	V
Imprisonment Range:	84 months to 105 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 10,000 to \$ 30,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

BJ

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

AUG 25 1998

UNITED STATES OF AMERICA

Phil Lombardi, Clerk
U.S. DISTRICT COURT

v.

Case Number 98-CR-032-001-C

JOE DONALD ADCOCK
Defendant.

ENTERED ON DOCKET

DATE 8/25/98

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, JOE DONALD ADCOCK, was represented by Cindy Cunningham.

The defendant pleaded guilty to Count 1 of the Indictment, May 19, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1709	Embezzlement by Postal Employee	3/4/98	1

As pronounced on August 13, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24th day of Aug, 1998.

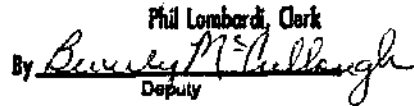

 The Honorable H. Dale Cook
 United States District Judge

Defendant's SSN: 441-58-7319

Defendant's Date of Birth: 9/28/54

Defendant's residence and mailing address: Rt. 2 Box 93, Bristow OK 74010

United States District Court
 Northern District of Oklahoma } ss
 I hereby certify that the foregoing
 is a true copy of the original on file
 in this court.

Phil Lombardi, Clerk
 By 
 Deputy

Defendant: JOE DONALD ADCOCK
Case Number: 98-CR-032-001-C

PROBATION

The defendant is hereby placed on probation for a term of three (3) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: JOE DONALD ADCOCK
Case Number: 98-CR-032-001-C

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 500, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: JOE DONALD ADCOCK
Case Number: 98-CR-032-001-C

RESTITUTION AND FORFEITURE**RESTITUTION**

The defendant shall make restitution in the total amount of \$70.00.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Marvin and Sonja Starkey 2304 Tuttington Oklahoma City, OK 73170	\$70.00

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: JOE DONALD ADCOCK
Case Number: 98-CR-032-001-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	6
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 500 to \$ 5,000
Restitution:	\$ 70.00

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BJS

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
IN OPEN COURT

AUG 24 1998

UNITED STATES OF AMERICA

v.

Case Number 97-CR-128-002-BU

Phil Lombardi, Clerk
U.S. DISTRICT COURT

HERSHEL LEE CLARK
Defendant.

ENTERED ON DOCKET
DATE 8-24-98

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, HERSHEL LEE CLARK, was represented by Darrell L. Bolton.

On motion of the United States the court has dismissed Counts 2 & 3 of the Indictment.

The defendant pleaded guilty to Count 1 of the Indictment, May 26, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
8 USC 371	Conspiracy to Travel Interstate to Aid in Racketeering Enterprise	1/18/97	1

As pronounced on August 12, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24th day of August, 1998.


The Honorable Michael Burrage
United States District Judge

Defendant's SSN: 445-82-7770

Defendant's Date of Birth: 8/6/73

Defendant's residence and mailing address: 1342 N. Joplin, Tulsa OK 74115

Defendant: **HERSHEL LEE CLARK**
Case Number: **97-CR-128-002-BU**

PROBATION

The defendant is hereby placed on probation for a term of two (2) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
4. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: HERSHEL LEE CLARK
Case Number: 97-CR-128-002-BU

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 250, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: HERSHEL LEE CLARK
Case Number: 97-CR-128-002-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	4
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 250 to \$ 5,000
Restitution:	\$ n/a

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BTB

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 21 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA
Plaintiff

VS

JOHN LOUIS PELLEGRINO
Defendant

Case Number 96-CR-105-001-H

ENTERED ON DOCKET

DATE **AUG 24 1998**

ORDER REVOKING SUPERVISED RELEASE

Now on this 20th day of August 1998, this cause comes on for sentencing concerning allegations that the defendant violated conditions of supervised release as set out in the Amended Petition on Supervised Release filed on July 1, 1998. The defendant is present in person and represented by counsel, Cindy H. Cunningham. The Government is represented by Assistant United States Attorney, Susan Morgan, and the United States Probation Office is represented by David Plunkett.

During the Revocation Hearing conducted on August 7, 1998, the defendant stipulated to the allegations noted in the Amended Petition on Supervised Release. Said allegations being that the defendant committed another crime while on supervised release; that he used controlled substances; and that he failed to report to the U.S. Probation Office within seventy-two hours of his release from the Bureau of Prisons. The Court found that the defendant was in violation of the conditions of his release and supervised release was revoked.

The Court found that the conviction occurred after November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines is applicable. Further, the Court found that the violations of supervised release constituted a Grade C violation in accordance with USSG § 7B1.1(a)(3), and the

defendant's Criminal History Category of VI is applicable for determining the imprisonment range.

In addition, the Court found that a Grade C violation and a Criminal History Category of VI establish a revocation imprisonment range of eight (8) to fourteen (14) months in accordance with USSG § 7B1.4(a) and 18 U.S.C. § 3583(e). In consideration of these findings and pursuant to U.S. vs. Lee, 757 F.2d 770 (10th Cir. 1992), in which the circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following sentence is ordered:

It is the judgment of the Court that the defendant, John Louis Pellegrino, is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of twenty-four (24) months. The Court recommends that, classification provisions permitting, the defendant be confined in a facility capable of providing the 500 hour comprehensive substance abuse treatment.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of twenty-eight (28) months. Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which he is released. While on supervised release, the defendant shall not commit another federal, state, or local crime, shall comply with the standard conditions that have been adopted by this Court, and shall comply with the following additional conditions:


1. The defendant shall not own or possess a firearm or destructive device.
2. The defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as he is released from the program by the probation officer.
3. The defendant shall abide by the Special Search and Seizure Condition as enumerated in Miscellaneous Order M-128, filed with the Clerk of the Court on May 25, 1995.

4. The defendant shall abide by the Special Financial Conditions as enumerated in Miscellaneous Order M-128, filed with the Clerk of the Court on March 18, 1992.

It is ordered that the defendant pay the balance of restitution in the amount of \$6,317.06.

This amount will be paid immediately. Any amount not paid immediately shall be paid while the defendant is in custody through the Bureau of Prisons' Inmate Financial Responsibility Program.

The defendant is remanded to the custody of the U.S. Marshal Service for immediate transport to the Bureau of Prison's facility of designation.


The Honorable Sven Erik Holmes
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOMINQUE YVES JANELLO,

Defendant.

No. 93-CR-180-B ✓
(97-CV-867-B)

FILED

AUG 20 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ENTERED ON DOCKET

DATE AUG 21 1998

JUDGMENT

This matter came before the Court upon Defendant's motion to vacate set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Court duly considered the issues and rendered a decision herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

SO ORDERED THIS 20th day of Aug., 1998.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 20 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOMINQUE YVES JANELLO,

Defendant.

No. 93-CR-180-B
(97-CV-867-B)

ORDER

Before the Court is the *pro se* Defendant Dominique Yves Janello's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (docket #11), as amended (#12). The government responded to the original and amended § 2255 motions (##13 and 15), and Defendant filed a reply to one of the government's responses. (#14).

After careful review of the motion papers and the record, the Court concludes that Defendant's amended motion pursuant to § 2255 is time-barred and should be dismissed.

BACKGROUND

On August 4, 1994, Defendant pleaded guilty to two counts of bank robbery, in violation of 18 U.S.C. § 2113(a). Sentencing proceedings were held on October 7, 1994, and the Court sentenced Defendant to 87 months imprisonment on each count to run concurrently, to be followed by three years of supervised release. Restitution of \$3,840 and a special assessment fee of \$100 were also imposed. Judgment against Defendant was entered on October 18, 1994. (#9). Defendant signed an acknowledgment and waiver of his right to appeal on October 7, 1994. (#8).

On September 22, 1997, Defendant proceeding *pro se* filed this § 2255 motion raising three issues:

- A. I was under the influence of medication known as doxipine during sentencing. My attorney told me to say No to the judge in order to get out of the jail and its miserable conditions.
- B. When asked by the judge what the note said that I showed the teller, my attorney advised me to say - Quote give me the money or I'll shoot you. The actual note stated, give me the money this is a robbery. My attorney advised me to say that because I had no type of weapon, and that it wouldn't hurt me. I made this statement without thought, due to being medicated with a mood altering drug. And ineffective counsel.
- C. Being that upon the date of my arrest I was served with a federal indictment and a detainer I should receive credit for jail time up to sentencing date of October 7th 94.

(#11 at 6-7). On January 6, 1998, prior to the Court's order directing the government to respond to the § 2255 motion, Defendant filed another § 2255 motion in which he repeats his claim that he was taking medication during sentencing and adds two additional claims:

- D. The sentence given on the judgement varied from the sentence pronounced in open court in that only two years supervised release were imposed in open court but three years supervised release are required in the written judgment.
- E. Correction of criminal history score where a single offense was double counted.

(#12 at 6-7). This second pleading was docketed as an amended motion pursuant to § 2255.

On January 9, 1998, the Court directed the government to respond to Defendant's § 2255 motion filed on January 6, 1998. Inadvertently, the Court did not require the government to also respond to the claims contained in Defendant's § 2255 motion filed on September 22, 1997. On January 22, 1998, the government responded to the amended § 2255 motion, arguing alternatively

that: Defendant had waived all rights to appeal and collateral attack; the grounds for relief were meritless; and the § 2255 motion filed January 6, 1998 should be dismissed as a second or subsequent filing. (#13). The government filed a second response on February 3, 1998, admitting that Defendant did preserve his right to review of sentencing calculations, but asserting that the § 2255 motion was time-barred. (#15).

Also on February 3, 1998, Defendant filed a reply to the first of the government's responses. (#14). In it, Defendant concedes that he was sentenced to three years of supervisory release, and that he did not intend to imply that his use of medication at the plea and sentencing proceedings rendered his guilty plea involuntary, only that it made him somewhat confused. (#14 at 2-3). Defendant states that he filed the "second" § 2255 motion in January, 1998, because he had called the Clerk's office and was told that there was no record his first § 2255 motion had been received. Defendant did not file a reply to the government's second response filed February 3, 1998 raising the statute of limitations.

ANALYSIS

The government's assertion that the § 2255 motion filed January 6, 1998 was a "second or successive" motion is not well-founded, as Rule 15(a), *Federal Rules of Civil Procedure*, allows a party to "amend the party's pleading once as a matter of course at any time before a responsive pleading is served." Therefore, Defendant's "second" pleading was properly docketed as an amended motion pursuant to § 2255.

However, the government also raises the issue that Defendant's motion is time-barred because it was not filed until September 22, 1997, almost five months after the statute of limitations had elapsed. Prior to the enactment of the AEDPA on April 24, 1996, § 2255 contained no statute of

limitations. The AEDPA amended 28 U.S.C. § 2255 by adding a time-limit provision. Specifically, 28 U.S.C. § 2255 now provides:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the fact supporting the claim or claims presented could have been discovered through the exercise of due diligence.

In United States v. Simmonds, 111 F.3d 737, 746 (10th Cir. 1997), the Tenth Circuit held that "prisoners whose convictions became final on or before April 24, 1996 must file their § 2255 motions before April 24, 1997." In so doing the Tenth Circuit allowed these prisoners a grace period of one year after the AEDPA's enactment within which to file their § 2255 motions.


Judgment and sentence were entered against Defendant on October 18, 1994. Defendant did not appeal, and his time to appeal expired ten days after entry of the judgment. Rule 4(b), *Federal Rules of Appellate Procedure*. Therefore, his conviction became final ten days after October 18, 1994. See Griffeth v. Kentucky, 479 U.S. 314, 321 n. 6 (1987). Pursuant to Simmonds, Defendant had until April 23, 1997 to file his motion under the limitations period set forth in § 2255(1). However, Defendant's original § 2255 motion was not filed with the Court until September 22, 1997. Defendant has failed to offer any explanation for his delay in filing the § 2255 motion or to otherwise

respond to the statute of limitations issue. Defendant does state in his original motion that on some earlier, unspecified date he had written a letter to the judge and received the forms on which to file a motion under § 2255. (#11 at 4). The Court has no record of any such communication, and, in any event, a letter from Defendant would not constitute a properly filed motion pursuant to § 2255. Thus, the Court finds that Defendant's motion, as amended, is clearly untimely and barred by the statute of limitations.

Therefore, because Defendant's § 2255 motion was filed after the expiration of the one-year limitations period, Defendant's motion, as amended, must be dismissed as untimely pursuant to the authority of § 2255, as amended by the AEDPA.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (docket #11), as amended (#12), is **dismissed with prejudice** as time-barred.

SO ORDERED THIS 20th day of Aug, 1998.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET
 DATE 8-21-98

UNITED STATES OF AMERICA

v.

Case Number 97-CR-065-001-K

ROGELIO ESCALONA
 Defendant.

FILED

AUG 21 1998

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

The defendant, ROGELIO ESCALONA, was represented by Al Alvarez.

On motion of the United States the court has dismissed Counts 2-6 of the Second Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Second Superseding Indictment, September 22, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

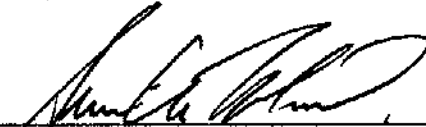
Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 846 & 841(a)(1) & 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute in Excess of 1,000 Pounds of Marijuana	9/9/97	1

As pronounced on August 13, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Second Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 20TH day of AUGUST, 1998.


 The Honorable Terry C. Kern, Chief
 United States District Judge

Defendant's SSN: 282-52-4378

Defendant's Date of Birth: 4-11-52

Defendant's residence and mailing address: 2505 Covina, McAllen TX 78503

Defendant: ROGELIO ESCALONA
Case Number: 97-CR-065-001-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 262 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be placed at a facility that provides Comprehensive Substance Abuse Treatment, and that he be incarcerated at the Three Rivers facility.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: ROGELIO ESCALONA
Case Number: 97-CR-065-001-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: ROGELIO ESCALONA
Case Number: 97-CR-065-001-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	34
Criminal History Category:	VI
Imprisonment Range:	262 months to 327 months
Supervised Release Range:	5 years
Fine Range:	\$ 17,500 to \$ 8,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s): because of the defendant's assistance to the government.

BJ

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET
 DATE 8-21-98

UNITED STATES OF AMERICA

v.

Case Number 97-CR-065-002-K

MICHAEL CANFIELD
 Defendant.

FILED

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

AUG 21 1998

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

The defendant, MICHAEL CANFIELD, was represented by Jim Fransein.

The defendant pleaded guilty to Count 1 of the Indictment, September 15, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846 & 841(1)(1)	Possession With Intent to Distribute in Excess of 1,000 Pounds of Marijuana	4/30/97	1

As pronounced on August 13, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 20TH day of AUGUST, 1998.


 The Honorable Terry C. Kern, Chief
 United States District Judge

Defendant's SSN: 446-48-3869

Defendant's Date of Birth: 11-15-47

Defendant's residence and mailing address: 207 SE Madison, Bartlesville OK 74006

Defendant: MICHAEL CANFIELD
Case Number: 97-CR-065-002-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 84 months.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to the El Reno Correctional Institution or to a facility as close to possible to Tulsa, Oklahoma in a facility that specializes in Comprehensive Substance Abuse Treatment.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 14, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: MICHAEL CANFIELD
Case Number: 97-CR-065-002-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: MICHAEL CANFIELD
Case Number: 97-CR-065-002-K

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 1,000, as to count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: MICHAEL CANFIELD
Case Number: 97-CR-065-002-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	31
Criminal History Category:	II
Imprisonment Range:	121 months to 151 months
Supervised Release Range:	5 years
Fine Range:	\$ 15,000 to \$ 4,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

BJJ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 18 1998

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TONY McCLELLAND,

Defendant.

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Case No. 91-CR-009-004-E

ENTERED ON DOCKET

DATE 8-19-98

ORDER GRANTING TERMINATION OF SUPERVISED RELEASE

COMES NOW, the undersigned Judge of the District Court and upon consideration of the Defendant McClelland's Motion To Terminate Supervised Release finds that same should be granted.

IT IS ORDERED that the supervised release previously ordered in the above captioned matter is hereby terminated.


JUDGE OF THE DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA)

vs.)

ROGELIO ESCALONA)

ENTERED ON DOCKET

DATE AUG 19 1998

Docket No. 98-CR-00010-001-K ✓

ORDER REVOKING SUPERVISED RELEASE

FILED

AUG 18 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Now on this 13th day of August 1998, this cause comes on for sentencing concerning allegations that the defendant violated conditions of supervised release as set out in the Petition on Supervised Release filed on February 2, 1998. The defendant is present in person and represented by counsel, Al Alvarez. The Government is represented by Assistant U.S. Attorney Allen Litchfield, and the United States Probation Office is represented by Robert E. Boston.

The defendant was heretofore convicted on his plea of guilty for a violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), and 18 U.S.C. § 2, Possession with Intent to Distribute Marijuana, as to Count Seven, and 18 U.S.C. § 1956(a)(1)(A), Money Laundering, as to Count Fifteen. The defendant was sentenced to a Thirty-five (35) month custody sentence to be followed by a five (5) year term of supervised release.

On this date, a revocation hearing was held regarding the allegations noted in the Petition on Supervised Release, filed on February 2, 1998, said allegation being that the subject violated Federal law, Possession with Intent to Distribute More Than 1,000 Kilograms of Marijuana. The defendant stipulated to the allegations as alleged in the Petition. The defendant requested immediate sentencing.

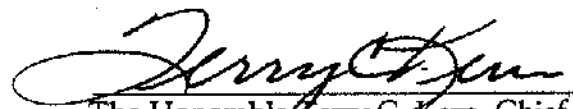
United States District Court
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this court.

By Phil Lombardi, Clerk

The Court found that the violation occurred after November 1, 1987, and that Chapter 7 of the U.S. Sentencing Guidelines is applicable. Further, the Court found that the violation of supervised release constituted a Grade A violation in accordance with U.S.S.G. § 7B1.1(a)(1)(A)(ii) and (B), and that the defendant's original Criminal History Category of II was applicable for determining the imprisonment range. In addition, the Court found that a Grade A violation and a Criminal History Category of II establish a revocation imprisonment range of fifteen (15) to twenty-one (21) months. In consideration of these findings and pursuant to U.S. vs. Lee, 957 F2d 770 (10th Cir. 1992), in which the Circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following was ordered:

The defendant, Rogelio Escalona, is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of fifteen (15) months, said term to run consecutive to the sentence imposed in case number 97-CR-65-K.

The defendant is remanded to the custody of the U.S. Marshal for transportation to the designated U.S. Bureau of Prisons' institution.


The Honorable Jerry C. Kern, Chief
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JIMMY GENE KELLY,

Defendant.

No. 91-CR-72-B
97-CV-748-B

FILED

AUG 17 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ENTERED ON DOCKET

DATE 8-18-98

JUDGMENT

This matter came before the Court upon Defendant's motion to vacate set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Court duly considered the issues and rendered a decision herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

SO ORDERED THIS 17th day of Aug, 1998.



THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

F I L E D

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Defendant.

ENTERED ON DOCKET
DATE 3-18-98

At the second sentencing, the Court departed upward six levels based upon the grounds approved by the Tenth Circuit, specifically U.S.S.G § 5K2.8 (defendant's gratuitous infliction of injury upon his victim). The Court resentenced Defendant to 360 months imprisonment. (#62). Defendant again appealed, asserting that this Court's upward departure methodology was erroneous. The Tenth Circuit affirmed Defendant's sentence. United States v. Kelly, No. 93-5283, 1994 WL 209863 (May 26, 1994). The United States Supreme Court denied Defendant's petition for writ of certiorari on October 11, 1994.

On August 18, 1997, Defendant proceeding *pro se* filed this § 2255 motion raising three issues:

1. The sentencing court's upward departure methodology (use of §2A2.2 as measurement for increasing Mr. Kelly's offense level) was erroneous because "infliction of injury" is an inherent element of second degree murder already included in the applicable offense level.
2. Was in fact, Mr. Kelly's offense a crime of passion thereby committing error in its departing of the guidelines?
3. Did the judge abuse discretion by not taking Mr. Kelly's age into consideration requiring downward departure and the fact that he was a first time offender with no prior criminal conduct?

(#68 at 8). In its response filed June 11, 1998, the government asserts that the motion is untimely because it was filed outside the one-year time limitation established by § 2255, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (the "AEDPA"). Defendant did not file a reply to the government's response raising the statute of limitations.

ANALYSIS

The government has raised the issue that Defendant's motion is time-barred because it was not filed until August 17, 1997, almost four months after the statute of limitations had elapsed. Prior to the enactment of the AEDPA on April 24, 1996, § 2255 contained no statute of limitations. The AEDPA amended 28 U.S.C. § 2255 by adding a time-limit provision. Specifically, 28 U.S.C. § 2255 now provides:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the fact supporting the claim or claims presented could have been discovered through the exercise of due diligence.

In United States v. Simmonds, 111 F.3d 737, 746 (10th Cir. 1997), the Tenth Circuit held that "prisoners whose convictions became final on or before April 24, 1996 must file their § 2255 motions before April 24, 1997." In so doing the Tenth Circuit allowed these prisoners a grace period of one year after the AEDPA's enactment within which to file their § 2255 motions.

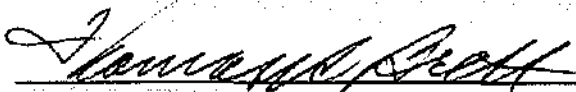
On appeal to the Tenth Circuit after remand and resentencing, Defendant's sentence was affirmed on May 26, 1994. Defendant's petition for writ of certiorari was denied by the United States Supreme Court on October 11, 1994. Therefore, Defendant's conviction became final on

October 11, 1994. See Griffith v. Kentucky, 479 U.S. 314, 321 n. 6 (1987). Pursuant to Simmonds, Defendant had until April 23, 1997 to file his motion under the limitations period set forth in § 2255(1). However, Defendant's § 2255 motion was not filed with the Court until August 17, 1997. Defendant has failed to offer any explanation for his delay in filing the § 2255 motion or to otherwise respond to the statute of limitations issue. Thus, the Court finds that Defendant's motion is clearly untimely and barred by the statute of limitations.

Therefore, because Defendant's § 2255 motion was filed after the expiration of the one-year limitations period, Defendant's motion must be dismissed as untimely pursuant to the authority of § 2255, as amended by the AEDPA.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (docket #68) is **dismissed with prejudice** as time-barred.

SO ORDERED THIS 17th day of Aug, 1998.


THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 17 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

No. 91-CR-72-B
97-CV-748-B

JIMMY GENE KELLY,)

Defendant.)

ENTERED ON RECORD
DATE 8-18-98

JUDGMENT

This matter came before the Court upon Defendant's motion to vacate set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Court duly considered the issues and rendered a decision herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

SO ORDERED THIS 17th day of Aug, 1998.



THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

AUG 17 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JIMMY GENE KELLY,

Defendant.

No. 91-CR-72-B
97-CV-748-B

ENTERED ON DOCKET
DATE 8-18-98

ORDER

Before the Court is the Defendant Jimmy Gene Kelly's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Docket #68). The Plaintiff United States of America has filed its response brief (#70). After careful review of the motion papers and the record, the Court concludes that Defendant's motion pursuant to § 2255 is time-barred and should be dismissed.

BACKGROUND

On December 19, 1991, Defendant was convicted by a jury of second-degree murder, in violation of 18 U.S.C. § 1111. (#49). At sentencing, the Court found grounds to depart upwardly eight levels from the range specified in the United States Sentencing Guidelines ("U.S.S.G." or "sentencing guidelines") and sentenced Defendant to 360 months imprisonment to be followed by five years of supervised release. Restitution of \$3,436.75 and a special assessment fee of \$50 were also imposed. (#53). Defendant appealed. The Tenth Circuit Court of Appeals found three of the four stated reasons for upward departure to be invalid, and remanded for resentencing. United States v. Kelly, 1 F.3d 1137 (10th Cir. 1993).

At the second sentencing, the Court departed upward six levels based upon the grounds approved by the Tenth Circuit, specifically U.S.S.G § 5K2.8 (defendant's gratuitous infliction of injury upon his victim). The Court resentenced Defendant to 360 months imprisonment. (#62). Defendant again appealed, asserting that this Court's upward departure methodology was erroneous. The Tenth Circuit affirmed Defendant's sentence. United States v. Kelly, No. 93-5283, 1994 WL 209863 (May 26, 1994). The United States Supreme Court denied Defendant's petition for writ of certiorari on October 11, 1994.

On August 18, 1997, Defendant proceeding *pro se* filed this § 2255 motion raising three issues:

1. The sentencing court's upward departure methodology (use of §2A2.2 as measurement for increasing Mr. Kelly's offense level) was erroneous because "infliction of injury" is an inherent element of second degree murder already included in the applicable offense level.
2. Was in fact, Mr. Kelly's offense a crime of passion thereby committing error in its departing of the guidelines?
3. Did the judge abuse discretion by not taking Mr. Kelly's age into consideration requiring downward departure and the fact that he was a first time offender with no prior criminal conduct?

(#68 at 8). In its response filed June 11, 1998, the government asserts that the motion is untimely because it was filed outside the one-year time limitation established by § 2255, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (the "AEDPA"). Defendant did not file a reply to the government's response raising the statute of limitations.

ANALYSIS

The government has raised the issue that Defendant's motion is time-barred because it was not filed until August 17, 1997, almost four months after the statute of limitations had elapsed. Prior to the enactment of the AEDPA on April 24, 1996, § 2255 contained no statute of limitations. The AEDPA amended 28 U.S.C. § 2255 by adding a time-limit provision. Specifically, 28 U.S.C. § 2255 now provides:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the fact supporting the claim or claims presented could have been discovered through the exercise of due diligence.

In United States v. Simmonds, 111 F.3d 737, 746 (10th Cir. 1997), the Tenth Circuit held that "prisoners whose convictions became final on or before April 24, 1996 must file their § 2255 motions before April 24, 1997." In so doing the Tenth Circuit allowed these prisoners a grace period of one year after the AEDPA's enactment within which to file their § 2255 motions.

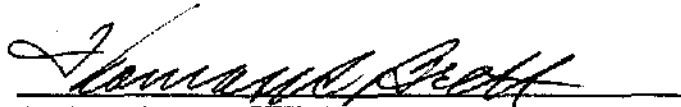
On appeal to the Tenth Circuit after remand and resentencing, Defendant's sentence was affirmed on May 26, 1994. Defendant's petition for writ of certiorari was denied by the United States Supreme Court on October 11, 1994. Therefore, Defendant's conviction became final on

October 11, 1994. See Griffeth v. Kentucky, 479 U.S. 314, 321 n. 6 (1987). Pursuant to Simmonds, Defendant had until April 23, 1997 to file his motion under the limitations period set forth in § 2255(1). However, Defendant's § 2255 motion was not filed with the Court until August 17, 1997. Defendant has failed to offer any explanation for his delay in filing the § 2255 motion or to otherwise respond to the statute of limitations issue. Thus, the Court finds that Defendant's motion is clearly untimely and barred by the statute of limitations.

Therefore, because Defendant's § 2255 motion was filed after the expiration of the one-year limitations period, Defendant's motion must be dismissed as untimely pursuant to the authority of § 2255, as amended by the AEDPA.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (docket #68) is **dismissed with prejudice** as time-barred.

SO ORDERED THIS 17th day of Aug, 1998.


THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 14 1998

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 97-CR-171-013-C

DELORES JEAN HILL
 Defendant.

ENTERED ON DOCKET

DATE 8/14/98

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

The defendant, DELORES JEAN HILL, was represented by Larry Roberson.

On motion of the United States the court has dismissed Count 1 of the Second Superseding Indictment.

The defendant pleaded guilty to Count 1 of the Information, April 22, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

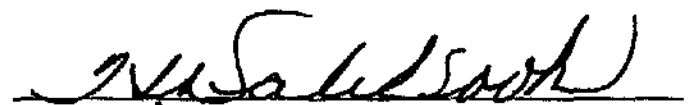
Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
1 USC 843(b) & (d)(1)	Use of Communication Facility in Facilitating the Commission of a Felony	9/26/96	1

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 13 day of August, 1998.


 The Honorable H. Dale Cook
 United States District Judge

Defendant's SSN: 444-68-3332

Defendant's Date of Birth: 7/18/58

Defendant's residence and mailing address: 140 W. Bryan Street, Sapulpa OK 74066

United States District Court } ss
 Northern District of Oklahoma }
 I hereby certify that the foregoing
 is a true copy of the original on file
 in this court.

Phil Lombardi, Clerk
 By Ben M. Callough
 Deputy

Defendant: DELORES JEAN HILL
Case Number: 97-CR-171-013-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 48 months.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the defendant to a facility equipped to provide comprehensive substance abuse treatment during her period of incarceration.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 9:00 a.m. on September 8, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: DELORES JEAN HILL
Case Number: 97-CR-171-013-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of one (1) year.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: DELORES JEAN HILL
Case Number: 97-CR-171-013-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	23
Criminal History Category:	II
Imprisonment Range:	48 months
Supervised Release Range:	1 year
Fine Range:	\$ 10,000 to \$ 100,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

RTJ

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 14 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 97-CR-171-004-C

ENTERED ON DOCKET

RICKY DALE ADMIRE
Defendant.

DATE 8/14/98

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

The defendant, RICKY DALE ADMIRE, was represented by Robert Stubblefield.

The defendant pleaded guilty to Count 1 of the Second Superseding Indictment, April 22, 1998. Accordingly, the defendant is adjudged guilty of such Count, involving the following offense:


Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 846	Conspiracy to Manufacture and Distribute a Controlled Substance	12/97	1

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Second Superseding Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 13th day of August, 1998.


The Honorable H. Dale Cook
United States District Judge

United States District Court } ss
Northern District of Oklahoma }
I hereby certify that the foregoing
is a true copy of the original on file
in this court.

Phil Lombardi, Clerk

Defendant's SSN: 445-72-0856

Defendant's Date of Birth: 9/21/60

Defendant's residence and mailing address: Tulsa County Jail, 500 S. Denver, Tulsa OK


Phil Lombardi, Clerk

Defendant: RICKY DALE ADMIRE
Case Number: 97-CR-171-004-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 120 months.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the defendant to a facility equipped to provide comprehensive substance abuse treatment during his period of incarceration.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: RICKY DALE ADMIRE
Case Number: 97-CR-171-004-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: RICKY DALE ADMIRE
Case Number: 97-CR-171-004-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	29
Criminal History Category:	VI
Imprisonment Range:	151 months to 188 months
Supervised Release Range:	5 years
Fine Range:	\$ 15,000 to \$ 4,000,000
Restitution:	\$ n/a

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence departs from the guideline range for the following reason(s): upon motion of the government, as a result of the defendant's substantial assistance.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE 8-14-98

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT HAMILTON,

Defendant.

No. 96-CR-025-K
97-CV-711-K

FILED

AUG 13 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

JUDGMENT

This matter came before the Court upon Defendant's motion to vacate set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Court duly considered the issues and rendered a decision herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

SO ORDERED THIS 12 day of August, 1998.



TERRY C. KERN, Chief Judge
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET
DATE 8-14-98

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT HAMILTON,

Defendant.

No. 96-CR-025-K
97-CV-711-K

FILED

AUG 13 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ORDER

Before the Court is the *pro se* Defendant Robert Hamilton's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Docket #90) together with his "memorandum with points of law" in support of his § 2255 motion (##93 and 94). The government has filed a response (#107) to which Defendant has filed a reply (#108). In addition, Defendant has filed a "Motion to Seal the Record of this Case and Also to Rename the Heading to John Doe vs. United States of America" (#109), a motion for appointment of counsel (#110), a "Motion as Listed under Rule 15(a) of the Federal Rules of Civil Procedure—Clarifying this Petitioner's Request for an Evidentiary Hearing" (#111), and a letter dated August 1, 1998 addressed to the District Judge which the Court construes as a motion to stay proceedings pending the decision of the Court of Appeals for the Tenth Circuit in United States v. Singleton, 144 F.3d 1343 (1998).

After reviewing the entire record in this case, the Court has determined that an evidentiary hearing is not necessary and that the motion pursuant to §2255 lacks merit and should be denied. Defendant's motions to seal the record, for appointment of counsel, and to clarify the request for an evidentiary hearing should also be denied.

BACKGROUND

On February 15, 1996, Defendant and six other individuals were charged with conspiracy to possess with intent to distribute in excess of five kilograms of cocaine and 100 grams of methamphetamine, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A). According to the indictment, Defendant obtained large quantities of illegal drugs and directed others in the conspiracy to distribute the drugs and collect the proceeds of drug sales. The indictment also alleged that Defendant attempted to suborn perjury by concocting a cover story to divert law enforcement attention from his drug related activities.

Defendant pled guilty to the charges pursuant to a plea agreement signed on April 11, 1996 by the Assistant U.S. Attorney, Defendant, and Defendant's retained attorney, C. Rabon Martin. In the plea agreement, Defendant admitted to being part of a drug distribution conspiracy, to arranging for drug deliveries and to distribution of drugs within the Northern District of Oklahoma. (Plea Agreement at 4). Defendant acknowledged that the statute called for imprisonment of ten years to life and a fine of up to \$4 million for this offense, but that the Court retained final discretion to sentence Defendant pursuant to the United States Sentencing Guidelines ("sentencing guidelines" or "U.S.S.G."). (Plea Agreement at 5-6). The government in turn agreed not to prosecute Defendant for other offenses uncovered during its investigation of the instant charges. (Plea Agreement at 5).

The parties also stipulated in the plea agreement that Defendant was an organizer, leader, manager or supervisor and thus a two-point enhancement under U.S.S.G. § 3B1.1(c) was appropriate; U.S.S.G. § 3B1.2's decrease for mitigating role did not apply; for purposes of computing the base offense level the quantity of methamphetamine distributed during the conspiracy was at least three but not more than ten kilograms, and at least five but not more than fifteen kilograms of

cocaine; the parties would litigate whether obstruction of justice points pursuant to U.S.S.G § 3C1.1 should be added; the parties agreed to seek neither an upward nor a downward departure from the guidelines range determined by the judge; and Defendant agreed to identify, locate and/or abandon to the government cash and other property obtained through illegal drug activities during the conspiracy (Plea Agreement at 7-9).

The Probation Office prepared a Presentence Report ("PSR"), to which defense counsel filed written objections (#29). On July 10 and 12, 1996 the Court held sentencing proceedings at which defense counsel renewed his objections to the PSR. After considering the parties' arguments, the Court adopted the recommendations of the PSR with the exception that it determined that the proposed two-point enhancement for obstruction of justice was not warranted. The Court sentenced Defendant to 190 months imprisonment, to be followed by five years of supervised release, and imposed a fine of \$5,000 (#35). The Court explained that it sentenced Defendant at the low end of the guidelines range (188-235 months) because of Defendant's limited criminal history and the fact that he would serve more than twelve years even with the maximum allowable time off for good behavior. (#35 at 5). This judgment and sentence was entered on July 24, 1996.

Defendant did not appeal. On December 4, 1996, Defendant filed a *pro se* motion to reduce or correct sentence pursuant to Rule 35, Federal Rules of Criminal Procedure, seeking a reduction in sentence due to alleged unconstitutional conditions at Tulsa County jail, where he was housed as a pre-trial detainee (#72). The Court denied the motion as not appropriate for relief under Rule 35 (#100). On July 11, 1997, Defendant filed a motion through retained counsel Thomas M. Askew for recognition of cooperation and to seal motion and order to maintain integrity of pending investigation and safety of Defendant (#89). Defendant alleged that in September of 1996, he submitted to the

U.S. Attorney a statement regarding his offer to voluntarily cooperate with the government. He attached to the motion a copy of a one-page memorandum dated December 2, 1996 to the Assistant U.S. Attorney from Charles W. Prather, an attorney apparently representing Defendant at that time, which details information concerning individuals involved in drug distribution whom Defendant would be able to discuss. (#89, Attachment). Defendant made the motion to preserve the date of Defendant's earliest offer of assistance for purposes of any Rule 35(b) motion which the government might later file. The Court granted this motion and recognized that Defendant proffered information to the United States Attorney's office in September, 1996. (#92). The Court thereafter allowed the withdrawal of Thomas M. Askew as counsel for Defendant (#96).

On August 5, 1997, Defendant filed this *pro se* motion pursuant to § 2255, raising ineffective assistance of counsel as the sole ground for relief. Specifically, Defendant alleges that:

Attorney at Law, Rabon Martin, would not allow Petitioner to Cooperate with US Govt. on drug activities in Oklahoma, Texas, and importation of drugs to N. America. Counsel stated that Petitioner would receive more time if he cooperated. Counsel failed to inform Pet. of USSG §5K1.1 possibility, or possibility of a future Rule 35 motion by the govt. Complete denial of access to information and statutes that could have resulted in different sentence.

(#90 at 5). Defendant attaches a number of exhibits to his memorandum, including letters dated September 9, 1996 and May 19, 1997 in which Defendant requests the Assistant U.S. Attorney to consider filing a Rule 35 motion in his case. (#83, Ex. 3 and 7). Defendant also attaches letters he wrote to the U.S. Customs Service in Texas and a United States Magistrate Judge in the Western District of Texas which convey his desire to cooperate with the authorities concerning drug trafficking in Texas. (#83, Ex. 5 and 8). Defendant also includes affidavits from his mother and girlfriend regarding a visit they made to Defendant's attorney, Rabon Martin. These affiants quote

Martin as saying that he has known many defendants to receive more time in prison by cooperating, and that cooperating would not help Defendant's case. Martin is also quoted as saying that Defendant could cooperate with the government after sentencing, and that he [Martin] did not cooperate with the government. (#83, Ex. 1 and 2).

Defendant requests the following relief: (1) a Court-ordered "debriefing" at which Defendant can provide the government with information about illegal drug activities; and (2) that he be resentenced with an "on the record" statement that "if the Defendant/Petitioner offers 'substantial assistance' the United States Attorney Office has the discretionary authority to evaluate the 'level' of assistance rendered in the indicting, subsequent arrest and prosecution of any individuals (or groups). That this defendant/petitioner has given information relating to criminal activity against the peace and dignity of this State and the United States of America.." (#93 at 24-25).

The government responds that Defendant was not denied his Sixth Amendment right to effective assistance of counsel, and attaches in support the affidavit of Rabon Martin. The government asserts that, while the Assistant U.S. Attorney had brief discussions with Martin concerning Defendant's cooperation, it had no real interest in entering into a cooperation agreement with Defendant, as Defendant was the ringleader of the drug distribution ring and the target of the government's investigation. In any event, the government continues, Defendant was not prejudiced by defense counsel's alleged errors because the government does not consider Defendant to have provided substantial assistance. Further, the government contends that because it has the sole discretion to investigate and determine if and how to use information, Defendant has no absolute right to cooperate or force a "de-briefing," be re-sentenced or receive a reduction in sentence.

In his reply, Defendant repeats that his counsel misled him by stating that other clients received longer sentences after cooperation and did not properly advise him of the risks and benefits of cooperating with the government. Defendant states that the government cannot rightly ignore a citizen's request to be debriefed regarding known criminal activity, and that he is not even asking for a reduction in his sentence at this time. Defendant alleges that the Assistant U.S. Attorney is refusing his efforts to cooperate solely because of his personal dislike of Defendant's former attorney.

ANALYSIS

A. Preliminary motions.

1. *Motion to seal the record and rename the heading.*

Defendant requests the Court to seal the entire record in order to protect the integrity of the investigation which Defendant has requested. He also desires the heading to be changed to "John Doe v. United States of America" because allegedly his personal security in prison would be compromised if this case were to be appealed and the Court of Appeals for the Tenth Circuit published an opinion identifying him as a prisoner desiring to cooperate with the government.

As noted above, upon defense counsel's motion the Court sealed documents containing defendant's proffer of cooperation concerning alleged criminal activities (#92). Defense counsel had requested that the motion be sealed "in the interest of safety to the Movant and also to ensure the integrity of the pending investigation." (#89). The latter reason no longer exists as the government states that there is not now and will be no future investigation relating to information provided by Defendant. Further, the allegedly sensitive documents containing the proffered information remain sealed, which should allay any legitimate concerns Defendant may have with regard to his personal safety. The Court is not persuaded that any steps beyond the sealing of those documents are

necessary to ensure Defendant's safety. Accordingly, Defendant's motion to seal the case record and change the heading is denied.

2. *Motion for appointment of counsel.*

On November 26, 1997, the Court denied Defendant's previous motion for appointment of counsel (#101). Defendant now reurges the Court to appoint counsel to assist him with the § 2255 motion, including any evidentiary hearing or debriefing process ordered by the Court. After carefully reviewing the complexity of the legal and factual issues involved, the Court again exercises its discretion to deny Defendant's motion for appointment of counsel. There is no constitutional right to counsel beyond the direct appeal of a conviction. See Swazo v. Wyoming Department of Corrections, 23 F.3d 332 (10th Cir. 1994). Further, there is no statutory right to appointed counsel, under Rule 8(c) of the Rules Governing 2255 Proceedings, when relief is denied without an evidentiary hearing. See United States v. Vasquez, 7 F.3d 81, 83 (5th Cir. 1993). As discussed more fully below, the Court determines that no evidentiary hearing is necessary. Therefore, Defendant's second motion for appointment of counsel should be denied.

3. *Motion to clarify request for evidentiary hearing.*

Defendant notes that he has attached two affidavits to his memorandum in support of the § 2255 motion; thus, Defendant contends, an evidentiary hearing is required to settle the factual discrepancies created between these affidavits and the affidavit of defense counsel submitted by the government. The Court construes this motion as a formal request for an evidentiary hearing which Defendant earlier made in his § 2255 motion.

Contrary to Defendant's assertions, the Court finds that an evidentiary hearing is not necessary as the issues can be resolved on the basis of the record. See Townsend v. Sain, 372 U.S.

293, 318 (1963), overruled in part by Keeney v. Tamayo-Reyes, 504 U.S. 1 (1992). Therefore, Defendant's motion should be denied.

4. *Motion to stay proceedings.*

In his letter to the Court, Defendant requests that the § 2255 motion be "shelved" until the Singleton case is resolved. In that case, Singleton argued that the government violated a federal statute by promising leniency to a witness in return for his testimony against her. Initially, in a panel decision announced July 1, 1998, the Tenth Circuit found that the government's promise of leniency in return for testimony did violate the statute and required suppression of the witness' testimony. Singleton, 144 F.3d at 1358. However, on July 10, 1998, the Court vacated its prior decision and ordered rehearing by the Court *en banc*. Id. at 1361.

Defendant argues that the proceedings in Singleton are relevant to his § 2255 motion. The Court, however, fails to see how the issues presented in Singleton are in any way pertinent to those raised in Defendant's motion. Unlike Singleton, the instant case does not involve a challenged witness' testimony against Defendant in return for prosecutorial leniency. Quite the contrary, Defendant pleaded guilty. Moreover, Defendant's plea agreement did not include any promise of governmental leniency in exchange for his testimony at a co-conspirator's trial. Accordingly, the Court is wholly unpersuaded that this case should be stayed pending resolution of Singleton.

B. **Ineffective assistance of counsel.**

Defendant alleges that his attorney erred in failing to fully advise him of the benefits and risks of cooperating with the government and failed specifically to advise him about the requirements of U.S.S.G. § 5K1.1 and Rule 35(b). He claims that prior to pleading guilty he

asked counsel if he should cooperate, but counsel dissuaded him from cooperating by telling him that other clients received longer sentences after cooperating and that Defendant would have plenty of time to cooperate after he was sentenced. Further, Defendant argues, counsel erred in failing to inform the government or the Court of Defendant's desire to cooperate. Defense counsel Rabon Martin, in his affidavit, affirms that on principle he does not represent clients who intend to cooperate with the government, and other counsel must be retained if a client later decides to cooperate. Martin states that he made this policy clear to Defendant before he agreed to represent him. Martin further states that Defendant's mother thereafter brought up the issue of cooperation and wanted to retain a different attorney for her son. Martin relates that he discussed this issue with Defendant, who agreed that Martin should continue to represent him and negotiate a plea agreement on his behalf without pursuing a cooperation agreement.

To establish ineffective assistance of counsel a defendant must show that his counsel's performance was deficient and that the deficient performance was prejudicial. Strickland v. Washington, 466 U.S. 668, 687 (1984); Osborn v. Shillinger, 997 F.2d 1324, 1328 (10th Cir. 1993). A defendant can establish the first prong by showing that counsel performed below the level expected from a reasonably competent attorney in criminal cases. Strickland, 466 U.S. at 687-88. There is a "strong presumption that counsel's conduct falls within the range of reasonable professional assistance." Id. at 688. In making this determination, a court must "judge . . . [a] counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id. at 690. Moreover, review of counsel's performance must be highly deferential. "[I]t is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Id. at 689.

To establish the second prong, a defendant must show that this deficient performance prejudiced the defense, to the extent that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. See also Lockhart v. Fretwell, 506 U.S. 364, 369-70 (1993). In the context of a guilty plea, the "prejudice" requirement focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process, and, to establish "prejudice," the defendant must show that there is a "reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Addressing the first prong of the Strickland analysis, the Court concludes that Defendant has failed to demonstrate that defense counsel's advice to forego cooperating before sentencing and his alleged failure to specifically inform Defendant of the possibility of a sentence reduction under U.S.S.G. § 5K1.1 and Rule 35(b), Fed. R. Crim. P., fall outside the range of reasonable professional assistance.

Guidelines § 5K1.1 provides in relevant part that: "[u]pon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines." Rule 35(b), Fed. R. Crim. P. allows the Court, on motion of the government, to reduce a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person.

In the instant case, the government's response and counsel's statements both indicate that prior to Defendant's plea and sentencing the government had little or no interest in cooperating

with Defendant, whom the government viewed as the ringleader of the drug distribution conspiracy and the ultimate target of its investigation. Certainly, the government's professed lack of interest in Defendant's assistance has been borne out by its indifference to Defendant's many proffers of cooperation following his sentencing. Thus, counsel's failure to inform Defendant specifically about provisions relating to substantial cooperation was not error and had no effect on his sentence. Cf., United States v. Gordon, 4 F.3d 1567,1570 (10th Cir.1993) (a miscalculation or erroneous sentence estimation by defense counsel is not a constitutionally deficient performance rising to the level of ineffective assistance of counsel).

Further, the record reflects that defense counsel argued successfully on Defendant's behalf against the proposed obstruction of justice enhancement, which would have moved Defendant into a guidelines range of 235 to 293 months imprisonment, a significantly greater range than the 188-235 month range finally determined. In addition, Defendant's sentence reflects a three-point downward adjustment for acceptance of responsibility, which further reduced the guideline range and, to some extent, reflected Defendant's cooperation with the investigation (PSR at 8). Based on its review of counsel's overall performance, the Court concludes that defense counsel's representation clearly fell "within the range of reasonable professional assistance" expected of attorneys in criminal cases.

Moreover, even were the Court to find counsel's performance deficient, Defendant would not be entitled to relief because his allegations are insufficient to satisfy the Strickland requirement of "prejudice." Defendant does not allege in his § 2255 motion that, had counsel correctly informed him about the potential benefits of cooperating under Rule 35(b) or the guidelines § 5K1.1, he would have pleaded not guilty and insisted on going to trial. Indeed, Defendant states

in his memorandum: "[t]his defendant/petitioner was not going to trial. That became obvious very quickly...Counsel failed to act when this Defendant/Petitioner requested whether it would help this case receive more favorable sentencing consideration." (#93 at 7-8; emphasis in original).

Defendant does not allege that counsel or the government misled him in order to entice him to plead guilty, nor does Defendant claim that he placed particular emphasis on the cooperation issue in deciding whether or not to plead guilty. Indeed, Defendant's arguments concerning a possible downward departure (§ 5K1.1) or subsequent reduction of sentence pursuant to Rule 35(b) would seem to apply not only to the sentence imposed pursuant to his guilty plea but also to any sentence he would have received had he gone to trial and been convicted.

Therefore, because Defendant in this case fails to allege the kind of "prejudice" necessary to satisfy the second half of the Strickland test, the Court concludes that he has not established ineffective assistance of counsel, and his motion pursuant to § 2255 should be denied without an evidentiary hearing. See Hill v. Lockhart, 474 U.S. at 60.

C. Prosecutorial misconduct.

Defendant's motion might also be liberally construed as including a claim of prosecutorial misconduct, in that Defendant also alleges that the U.S. Attorney has improperly resisted his attempts to provide information concerning illegal activity solely because he disliked Defendant's choice of defense attorneys. Clearly, Defendant is not entitled to collateral relief pursuant to such a theory.

While the sentencing guidelines and Rule 35(b) contemplate situations in which a defendant will cooperate with the government and thereby earn a recommendation for a reduction in sentencing, these provisions do not give a defendant an absolute right to cooperate and earn a

downward sentence. See United States v. Kuntz, 908 F.2d 655, 657 (10th Cir. 1990); United States v. LaGuardia, 902 F.2d 1010, 1014-15 (1st Cir.1990). Even where a defendant has provided assistance, courts review a prosecutor's discretionary refusal to file a substantial assistance motion in only three instances: (1) if it violates an agreement with the defendant; (2) if the refusal was based on an unconstitutional motive; or (3) "in an egregious case . . . where the prosecution stubbornly refuses to file a motion despite overwhelming evidence that the accused's assistance has been so substantial as to cry out for meaningful relief." United States v. Lee, 989 F.2d 377, 380 (10th Cir. 1993) (quoting Kuntz, 908 F.2d at 657 (10th Cir.1990)).

Here, Defendant does not allege that he has provided substantial assistance but only that he desires an opportunity to do so. Thus, Defendant's case is even weaker than those envisioned by the court in Lee. However, it is instructive to review under similar standards the government's refusal to accept Defendant's offered assistance. As to the first instance where judicial review is appropriate, Defendant does not allege that he had any agreement with the government concerning his assistance. Defendant's plea agreement is silent on the issue of cooperation or assistance. It does, however, specifically provide that "[t]he parties agree to neither seek an upward departure nor a downward departure from the guideline range determined by the sentencing judge." (Plea Agreement at 8). A substantial assistance motion pursuant to U.S.S.G. § 5K1.1 seeks a downward departure and, as such, would seem to be precluded by the plea agreement, which Defendant signed.

Secondly, Defendant fails to allege that the government's refusal to accept his offers of cooperation was based on any unconstitutional motive such as race, gender, or religion. See Wade v. United States, 504 U.S. 181, 185 (1992). Rather, Defendant makes the conclusory statement

that the Assistant U.S. Attorney's refusal to listen to Defendant's proffered information is based on his personal feelings toward defense counsel or Defendant. These generalized claims of improper motive do not approach the threshold showing required for an evidentiary hearing on this matter. Nor does the record before us present an "egregious case" where the prosecutor has "stubbornly refused" to file a motion despite "overwhelming evidence" that Defendant has provided assistance "so substantial as to cry out for meaningful relief." Kuntz, 908 F.2d at 657.

The premise underlying the requirement that the government file a substantial assistance motion is that the government is in the best position to determine whether a defendant provides assistance substantial enough to warrant filing such a motion. United States v. Perez, 955 F.2d 34, 36 (10th Cir. 1992). In the instant case, the government claims it is not interested in Defendant's assistance, and it never bargained for Defendant's cooperation. Whatever the reason for the government's disinterest, Defendant clearly is not entitled to force his assistance upon the government in order to obtain a reduction in sentence. The Court concludes that Defendant's allegations of prosecutorial misconduct do not state any cognizable constitutional violation.

CONCLUSION

Defendant has failed to demonstrate ineffective assistance of counsel or prosecutorial misconduct in refusing his offers of assistance. Therefore, his motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 should be denied.

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. Defendant's "Motion to Seal the Record of this Case and Also to Rename the Heading to John Doe vs. United States of America" (#109) is **denied**.
2. Defendant's motion for appointment of counsel (#110) is **denied**.
3. Defendant's "Motion as Listed under Rule 15(a) of the Federal Rules of Civil Procedure—Clarifying this Petitioner's Request for an Evidentiary Hearing" (#111) is **denied**.
4. Defendant's letter dated August 1, 1998 and construed as a motion to stay proceedings pending the decision of the Court of Appeals for the Tenth Circuit in United States v. Singleton is **denied**.
5. Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Docket #90) is **denied**.

SO ORDERED THIS 12 day of August, 1998.



TERRY C. KERN, Chief Judge
UNITED STATES DISTRICT COURT

DATE

8-14-98

FILED

AUG 13 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROMAN DEVON HANKINS,

Defendant.

95-CR-148-C ✓
No. 98-CV-89-C (E)JUDGMENT

This matter came before the Court for consideration of defendant Roman Devon Hankins' motion to vacate, set aside, or correct sentence, pursuant to 18 U.S.C. § 2255. The issues having been duly considered and a decision having been rendered in accordance with the Order filed contemporaneously,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered for plaintiff, the United States of America, and against defendant, Roman Devon Hankins, on his challenge to the legality of his sentence.

IT IS SO ORDERED this 13th day of August, 1998.



H. Dale Cook
Senior United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE 8-14-98

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROMAN DEVON HANKINS,

Defendant.

No. 95-CR-148-C

FILED

AUG 13 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ORDER

Currently pending before the Court is defendant Roman Hankins' motion seeking to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255.

On February 14, 1996, Hankins pled guilty to Count One of a Second Superseding Indictment, conspiracy to possess cocaine with intent to distribute, in violation of 21 U.S.C.

§§ 841(a)(1) and 846. On August 22, 1996, Hankins was sentenced to 230 months imprisonment on Count One. On September 11, 1996, Hankins filed an appeal, and the Circuit subsequently affirmed this Court on October 14, 1997. U.S. v. Hankins, 127 F.3d 932 (10th Cir. 1997).

In his section 2255 motion, Hankins attacks his sentence alleging various claims of ineffective assistance of counsel and that the Court was and is without jurisdiction to adjudicate the case. Defendant's ineffective assistance of counsel claims all derive from the amount of drugs attributed to him for sentencing purposes. Specifically, Hankins alleges that counsel failed him in the following respects: 1) counsel did not argue the applicability of the "Safety Valve" provision of 18 U.S.C. § 3553(b); 2) counsel did not object to the amount of drugs attributed to defendant; 3) counsel did not argue that Hankins was not responsible for the conduct of other members of the

conspiracy; and, 4) counsel did not introduce evidence to challenge the large amount of narcotics attributed to defendant at sentencing. Hankins next argues in a rambling and conclusory manner that the Court lacked jurisdiction over this matter rendering the resulting conviction and judgment null and void.

Typically, "§ 2255 is not available to test the legality of matters which should have been raised on appeal." U.S. v. Walling, 982 F.2d 447, 448 (10th Cir.1992). A failure to raise an issue on direct appeal acts as a bar to raising the issue in a § 2255 motion unless Hankins can show cause and actual prejudice or can show that a fundamental miscarriage of justice will result if his claim is not addressed. U.S. v. Allen, 16 F.3d 377, 378 (10th Cir.1994). This procedural bar applies to collateral attacks on a defendant's sentence, as well as his conviction. Id. Since the government raised this procedural bar in the instant case, this Court must enforce it and hold Hankins' claims barred unless cause and prejudice or a miscarriage of justice is shown. Id.

However, "while ordinarily the procedural bar rule . . . applies to section 2255 proceedings . . . it does not apply to ineffective assistance of counsel claims." U.S. v. Galloway, 56 F.3d 1239, 1241 (10th Cir. 1995)(citations omitted). Thus, in order to overcome the procedural bar, Hankins relies upon the well-established exception, and now the universal claim, of ineffective assistance of counsel. A claim of ineffective assistance of counsel requires that Hankins satisfy the rigid standard contained in Strickland v. Washington, 466 U.S. 668 (1984). The Supreme Court in Strickland held that a claim of ineffective assistance of counsel has two components. First, Hankins must show that his attorney "made errors so serious that counsel was not functioning as the 'counsel' guaranteed . . . by the Sixth Amendment." Id. at 687. "The proper standard for attorney performance is that of reasonably effective assistance." Id. Therefore, to succeed, Hankins must show that his counsel's

performance fell below an objective standard of reasonableness. Furthermore, Hankins must show that "the deficient performance prejudiced the defense." Id. However, "a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance" Id. at 689. For the reasons stated below, the Court concludes that Hankins failed to satisfy the Strickland standard for demonstrating ineffective assistance of counsel.

In his first argument, Hankins alleges that he received deficient counsel in that counsel failed to argue the applicability of the "Safety Valve" provision, under 18 U.S.C. § 3553(b), to this case. Congress, through this provision, expressly confers the courts with discretion to depart from the Guideline sentence in atypical situations where aggravating or mitigating circumstances are present. 18 U.S.C. § 3553(b). Hankins maintains that counsel should have argued for the application of this provision as his case was atypical because he was erroneously held accountable for the entire amount of drugs attributed to the conspiracy; thereby, resulting in an excessive and unjust sentence. Defendant's sentence was based upon his culpability for an excess of 1.5 kilograms of crack cocaine. In support, Hankins cites U.S. v. Martinez, 987 F.2d 920 (2nd Cir. 1993), in which the Second Circuit found that a defendant could not be held responsible for narcotics sold by members of the conspiracy prior to that defendant joining said conspiracy, and argues that he received credit for drugs sold by other conspirators which were not foreseeable to him.¹ Nonetheless, Hankins is not entitled to relief as there is simply no merit to his contentions.

To the contrary, the record clearly establishes, inter alia, that Hankins joined the conspiracy in November 1991, just months after its inception, and continued to purchase narcotics during the

¹ As an ancillary matter, the Court notes that the Tenth Circuit also employs a foreseeability test when determining the amount a drugs attributable to a conspirator. U.S. v. Hooks, 65 F.3d 850, 854 (10th Cir. 1995), cert. denied, 516 U.S. 1083 (1996).

entirety of the conspiracy. Further, Hankins' plea agreement expressly acknowledges responsibility for an amount of crack cocaine in excess of 1.5 kilograms. Hankins' Petition to Plea Guilty, p. 2. The parties additionally stipulated that Hankins could properly be held responsible for said amount. Hankins' Plea Agreement, p. 12. Moreover, Hankins in his own words acknowledged that, "Yes, from November '91, I received at least a kilo and a half – a kilo and a half of crack cocaine up to about December [1995]." Transcript of Hankins' Sentencing, February 14, 1996, p. 14. As such, it cannot be said that this case presents an atypical situation warranting application of the "Safety Valve" provision as it was certainly foreseeable that Hankins could be being held responsible for 1.5 kilograms of crack cocaine. Further, the Court must note that Hankins made this acknowledgment after being apprised of the consequences of his plea and queried by the Court as to the voluntariness of the plea and his satisfaction with counsel's performance; to which Hankins responded that he did want to plead guilty, that said plea was being made voluntarily, and that he was pleased with counsel's performance. In light of Hankins' plea, the Court simply cannot conclude that counsel's failure to argue for application of the "Safety Valve" provision constituted representation falling below an objective standard of reasonableness. That is, Hankins is not entitled to relief as he fails to show that he was prejudiced in that the results of the proceedings, i.e., the length of his sentence, would have been different "but for" counsel's actions. In any event, this argument is foreclosed as a plea of guilty waives any nonjurisdictional defenses. U.S. v. Davis, 900 F.2d 1524, 1525-26 (10th Cir. 1990).

In respect to Hankins remaining grounds claiming ineffective assistance, the Court finds them without merit and summarily overrules them as well. It is well settled that a lawful plea is enforceable. U.S. v. Libretti, 38 F.3d 523, 529 (10th Cir. 1994). And, as previously stated, it is also

well settled that a plea of guilty waives any defenses that are not grounded in the Constitution. Davis, at 1524-26. In the case at bar, Hankins pled guilty and acknowledged that he was culpable for an amount of crack cocaine in excess of 1.5 kilograms. Simply put, Hankins' assertions are completely unfounded as it cannot be said that counsel acted unreasonably or was ineffective for failing to argue that at sentencing which was waived by the plea agreement.

Hankins' final assertion that the Court was without jurisdiction to adjudicate this case is likewise destined for the same fate as his appeal and previous claims in this motion. Hankins' present argument is fatally flawed in that he ignores the fact that the Court has been granted original jurisdiction, exclusive of the courts of the States, over all offenses against the laws of the United States. 18 U.S.C. § 3231. In this case, Hankins was charged with and pleaded guilty to violating the laws of the United States, to wit: 21 U.S.C. §§ 841(a)(1) and 846. Further, Hankins acknowledged that he purchased the aforementioned crack cocaine in various hotels located in Tulsa, Oklahoma, which is located in the Northern District of Oklahoma. Sentencing Transcript, at p. 14. Hence, Hankins final claim is denied as frivolous and without merit.


In closing, the Court denies Hankins' request for an evidentiary hearing as the matter is now moot in light of the Court's rulings. See Rule 8 of the Rules Governing Section 2255 Proceedings. The pleadings clearly indicate that Hankins has advanced no colorable grounds for relief. Hence, the Court concludes that an evidentiary hearing would serve no purpose and denies same.

In sum, Hankins' motion attacking his sentence is overruled in its entirety. His claims challenging the amount of narcotics attributable to him for sentencing are simply unfounded. Considering the evidence, it is abundantly clear that holding Hankins accountable for 1.5 kilograms of crack cocaine was eminently foreseeable at the very least. He was part of the conspiracy

practically from its inception to its demise at the hands of law enforcement. Further, Hankins pleaded guilty and expressly acknowledged his responsibility for an amount of drugs in excess of 1.5 kilograms; thereby, waiving any challenges to his sentence to that end. The Court likewise denies Hankins' assertions that this Court is without jurisdiction. Hankins' mere rambling assertions and conclusory allegations simply do not divest the Court of jurisdiction to adjudicate this case.

Accordingly, Hankins' motion to vacate, set aside, or correct sentence, pursuant section 2255, is hereby DENIED.

IT IS SO ORDERED this 13 day of August, 1998.


H. Dale Cook
Senior United States District Judge

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 98-CR-040-001-K

BOBBY LEE JOHNSON
Defendant.

FILED

AUG 14 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, BOBBY LEE JOHNSON, was represented by Jack Schisler.

The defendant pleaded guilty to Count 1 of the Indictment, May 1, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 472 & 2	Uttering Counterfeit Obligations of the United States & Aiding and Abetting	8/10/97	1

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 13 day of August, 1998.


The Honorable Terry C. Kern, Chief
United States District Judge

Defendant's SSN: 443-64-3075

Defendant's Date of Birth: 10/5/56

Defendant's residence and mailing address: Box 154, Prue OK 74060

Defendant: BOBBY LEE JOHNSON
Case Number: 98-CR-040-001-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 3 months, as to Count 1, said term to run concurrently with term imposed in Northern District of Oklahoma Case 98-CR-009-001-K.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the Turley Correctional Center as the place of confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 11, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: BOBBY LEE JOHNSON

Case Number: 98-CR-040-001-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of two (2) years, as to Count 1, said term to run concurrently with term imposed in Northern District of Oklahoma Case 98-CR-009-001-K.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
6. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
7. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: BOBBY LEE JOHNSON

Case Number: 98-CR-040-001-K

RESTITUTION AND FORFEITURE
RESTITUTION

The defendant shall make restitution in the total amount of \$700. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Hardee's 301 S. Thompson Springdale, AR 72764	\$50
McElroy Bank & Trust 502 S. Thompson Fayetteville, AR 72702	\$100
First National Bank Box 130 Siloam Springs, AR 72761	\$100
Nations Bank 1061 Joyce Street Fayetteville, AR 72703	\$150
McDonald's 502 S. Thompson Springdale, AR 72764	\$50
Bank of Arkansas 3500 N. College Fayetteville, AR 72703	\$50
Springdale Bank & Trust Box 5000 Springdale, AR 72764	\$50
Arkansas State Bank Box 400 Siloam Springs, AR 72761	\$50
Arby's 908 S. Thompson Springdale, AR 72764	\$50
Burger King 1112 S. Thompson Springdale, AR 72764	\$50

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: BOBBY LEE JOHNSON
Case Number: 98-CR-040-001-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except the Court sustained the objection on 6 level increase to base offense level related to a specific offense characteristic as outlined in USSG §2B5.1(b)(2).

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 700

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason(s): all victims were not located during investigation. The \$700 amount is for known victims.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET
DATE 8-14-98

UNITED STATES OF AMERICA

v.

Case Number 98-CR-040-002-K

JIMMY DEAN JOHNSON
Defendant.

FILED

AUG 14 1998

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, JIMMY DEAN JOHNSON, was represented by Michael McGuire.

The defendant pleaded guilty to Count 1 of the Indictment, May 1, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:


Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 472 & 2	Uttering Counterfeit Obligations of the United States & Aiding and Abetting	8/10/97	1

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 13 day of August, 1998.


The Honorable Terry C. Kern, Chief
United States District Judge

Defendant's SSN: 444-58-1994

Defendant's Date of Birth: 8/8/53

Defendant's residence and mailing address: Box 154, Prue OK 74060

Defendant: JIMMY DEAN JOHNSON
Case Number: 98-CR-040-002-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 3 months, as to Count 1, said term to run concurrently with the sentence imposed in Northern District of Oklahoma Case 98-CR-009-002-K.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the Turley Correctional Center as the place of confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 11, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: JIMMY DEAN JOHNSON

Case Number: 98-CR-040-002-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of two (2) years, as to Count 1, said term to run concurrently with the term imposed in Northern District of Oklahoma Case 98-CR-009-002-K.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
6. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
7. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: JIMMY DEAN JOHNSON

Case Number: 98-CR-040-002-K

RESTITUTION AND FORFEITURE
RESTITUTION

The defendant shall make restitution in the total amount of \$700. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Hardee's 301 S. Thompson Springdale, AR 72764	\$50
McElroy Bank & Trust 502 S. Thompson Fayetteville, AR 72702	\$100
First National Bank Box 130 Siloam Springs, AR 72761	\$100
Nations Bank 1061 Joyce Street Fayetteville, AR 72703	\$150
McDonald's 502 S. Thompson Springdale, AR 72764	\$50
Bank of Arkansas, NA 3500 N. College Fayetteville, AR 72703	\$50
Springdale Bank & Trust Box 5000 Springdale, AR 72764	\$50
Arkansas State Bank Box 400 Siloam Springs, AR 72761	\$50
Arby's 908 S. Thompson Springdale, AR 72764	\$50
Burger King 1112 S. Thompson Springdale, AR 72764	\$50

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: JIMMY DEAN JOHNSON
Case Number: 98-CR-040-002-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except the Court sustained the objection to the 6 level increase related to a specific offense characteristic as outlined in USSG §2B5.1(b)(2).

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 700

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason(s): all victims were not located during investigation, the \$700 amount is for known victims.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 12 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA
Plaintiff

VS

MICHAEL J. MORRIS
Defendant

Case Number: 92-CR-060-001-B

ENTERED ON DOCKET

DATE

8-13-98

ORDER REVOKING TERM OF SUPERVISED RELEASE

Now on this 7th day of August, 1998, this cause comes on for sentencing after a finding that the defendant violated his conditionns of supervised release as set out in the Petition on Supervised Release filed on April 13, 1998. The defendant is present in person and with his attorney, Rabon Martin. The Government is represented by Assistant United States Attorney Kenneth P. Snoke, and the United States Probation Office is represented by Scott Kallenberger.

On January 4, 1993, Morris was sentenced to a 30 month custody term followed by a three year term of supervised release, following his guilty plea to a one-count Indictment charging Use of False Social Security Number, in violation of 18 U.S.C. § 408 (a)(7)(B). Morris was ordered to pay a special assessment of \$50 and to make restitution in the amount of \$6,741.

The term of supervised release commenced on March 29, 1995. On August 11, 1997, the Court revoked Morris' term of supervised release for a new law violation and technical infractions. He was sentenced to a revocation term of six months custody, ordered to pay restitution totalling \$4,230, and a term of supervised release that included the standard conditions and several special conditions was imposed for a period of 30 months. On March 11, 1998, Morris' term of supervised

release commenced. On April 13, 1998, a Petition on Supervised Release was filed alleging that Morris violated standard conditions of supervised release related to untruthful reporting; that he violated the special condition prohibiting involvement in the mortgage industry; and that he made a false statement to judicial officials, conduct constituting a new law violation. On July 22, 1998, the Court found Morris violated conditions of supervised release as alleged in the Petition on Supervised Release, concluding Morris committed both Grade B and C violations.


The Court finds that the instant conviction occurred after November 1987, and that Chapter 7 of the Sentencing Guidelines is applicable. Further, the Court find that a violation constitutes a Grade B violation and the defendant's original Criminal History Category of V is applicable for determination of the Chapter 7 sentencing range. A Grade B violation and a Criminal History Category V establish an imprisonment sentence of 18 months. In consideration of these findings and pursuant to U.S. v Lee, 957 F.2d 770 (10th Cir. 1992), in which the Circuit determined that the policy statements in Chapter 7 are not mandatory but must be considered by the Court, the following is ordered:

It is the judgment of the Court that the term of supervised release is hereby revoked, and the defendant is committed to the custody of the Bureau of Prisons for a term of six (6) months. Restitution in the amount of \$4,230 is imposed. Restitution shall be due immediately. Any amount not paid immediately shall be paid during the term of imprisonment, with any remaining amount due and payable during the term of supervised release.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of eighteen (18) months. Within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which he is released.

From this date until expiration of this sentence, to include while on supervised release, you shall not commit another federal, state, or local crime. You are prohibited, during the term of supervised release, or afterward, from possessing a firearm, explosive device, or other dangerous weapon unless you have received express written permission of the appropriate federal and state agency. While on supervised release you shall not illegally possess a controlled substance. Further, you shall comply with the standard conditions that have been adopted by this Court, and you shall comply with the special conditions previously imposed in this case on January 4, 1993, August 3, 1995, January 25, 1996, and August 11, 1997. If the term of supervised release is later revoked, up to 12 months of additional imprisonment could be imposed.

The defendant shall report to the facility designated by the Bureau of Prisons at or before 3:00 p.m. on September 14, 1998. While released pending voluntary surrender, you shall abide by the standard and all special conditions heretofore imposed as conditions of supervised release.


The Honorable Thomas R. Brett
Senior United States District Judge
8-12-98

United States District Court }
Northern District of Oklahoma } SS
I hereby certify that the foregoing
is a true copy of the original on file
in this court.

By  Phil Lombardi, Clerk
Deputy

CW

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET

DATE 8-13-98

UNITED STATES OF AMERICA

v.

Case Number 98-CR-036-001-H

ROBIN SUE WALTERS
Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

FILED
AUG 13 1998
Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, ROBIN SUE WALTERS, was represented by Jack Winn.

The defendant pleaded guilty to Counts 1 & 2 of the Information, May 8, 1998. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1702	Obstruction of Correspondence	6/24/97	1
18 USC 1029	Unauthorized Use of Access Device	11/21/97	2

As pronounced on August 7, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 200, for Counts 1 & 2 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 12TH day of August, 1998.

United States District Court)
Northern District of Oklahoma) SS

I hereby certify that the foregoing
is a true copy of the original on file
in this court.

Phil Lombardi, Clerk

By Rosanne J. Miller
Deputy


The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 448-58-2614

Defendant's Date of Birth: 12/15/55

Defendant's residence and mailing address: Rt. 3 Box 470, Chelsea OK 74016

Defendant: ROBIN SUE WALTERS
Case Number: 98-CR-036-001-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 10 months, as to each of Counts 1 & 2, said terms to run concurrently, each with the other.

The Court makes the following recommendations to the Bureau of Prisons: that the terms of imprisonment be served in the Turley Community Sanction Center in Tulsa, Oklahoma.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 7, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: ROBIN SUE WALTERS
Case Number: 98-CR-036-001-H

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years, as to each of Counts 1 & 2, said terms to run concurrently, each with the other.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of four (4) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant, based upon her ability to pay as assessed by the United States Probation Office.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: ROBIN SUE WALTERS
Case Number: 98-CR-036-001-H

RESTITUTION AND FORFEITURE**RESTITUTION**

The defendant shall make restitution in the total amount of \$53,410.52. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Capitol Services, Inc. Attn: 12028-0230 Frankie Barksdale PO Box 85582 Richmond, Virginia 23260	\$510.91
MBNA America PO Box 15730 Wilmington, Delaware 19884-1131 Attn: Marika Chronister Fraud/Restitution acct. no. 4264 2902 9900 3368	\$19,250
MBNA America PO Box 15730 Wilmington, Delaware 19885-5730 Attn: Debbie Kinney Fraud/Restitution acct. no. 5490 9900 1320 5156	\$25,000
Bank One PO Box 24057 Columbus, Ohio 43224 acct. no. 4417 1629 7534 0537	\$149.61
Travelers Bank 100 Commerce Drive Newark, Delaware 19713 acct. no. 5308 9805 1810 0129	\$8,500

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: ROBIN SUE WALTERS
Case Number: 98-CR-036-001-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	11	
Criminal History Category:	I	
Imprisonment Range:	8 months to 14 months	Cts. 1 & 2
Supervised Release Range:	2 to 3 years	Cts. 1 & 2
Fine Range:	\$ 2,000 to \$ 20,000	Cts. 1 & 2
Restitution:	\$ 53,410.52	

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

DATE 8/13/98

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 97-CR-163-002-11

TERRANCE FRANKLIN REVIS
Defendant.**AMENDED JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)
Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)**FILED**
AUG 13 1998
Phil Lombardi, Clerk
U.S. DISTRICT COURT

The defendant, TERRANCE FRANKLIN REVIS, was represented by Kent R. Hudson.

On motion of the United States the court has dismissed Counts 1-11, 13-30 & 32-64 of the Indictment.

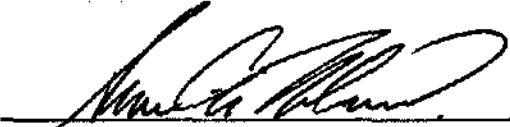
The defendant pleaded guilty to Count 31 of the Indictment, April 27, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1341 & 2	Mail Fraud & Causing a Criminal Act	10/28/95	31

As pronounced on July 27, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for Count 31 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 12TH day of AUGUST, 1998.
The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 527-53-1052

Defendant's Date of Birth: 1/1/75

Defendant's residence and mailing address: 919 S. Mission #8, Sapulpa OK 74066

45

Defendant: TERRANCE FRANKLIN REVIS
Case Number: 97-CR-163-002-H

PROBATION

The defendant is hereby placed on probation for a term of five (5) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of six (6) months, to commence within 72 hours of sentencing date. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
4. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: TERRANCE FRANKLIN REVIS
Case Number: 97-CR-163-002-H

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$10,000. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
United States of America Department of Health & Human Services Attn: Medicare Fraud Unit Washington DC	\$10,000

{Loss sustained in connection with Revis Ambulance}

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: TERRANCE FRANKLIN REVIS
Case Number: 97-CR-163-002-H

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	10
Criminal History Category:	I
Imprisonment Range:	6 months to 12 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 2,000 to \$ 20,000
Restitution:	\$ 1,180,540.80

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason: because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 98-CR-009-001-K

BOBBY LEE JOHNSON
Defendant.

ENTERED ON DOCKET
DATE 8-12-98

FILED

AUG 12 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, BOBBY LEE JOHNSON, was represented by Jack Schisler.

On motion of the United States the court has dismissed Counts 1 & 3 of the Indictment.

The defendant pleaded guilty to Count 2 of the Indictment, May 1, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 471 & 2	Counterfeiting Obligations of the United States & Aiding and Abetting	8/13/97	2

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 2 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 11 day of August, 1998.



The Honorable Terry C. Kern, Chief
United States District Judge

Defendant's SSN: 443-64-3075

Defendant's Date of Birth: 10/5/56

Defendant's residence and mailing address: Box 154, Prue OK 74060

Defendant: BOBBY LEE JOHNSON
Case Number: 98-CR-009-001-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 3 months, as to Count 2, said term to run concurrently with Northern District of Oklahoma Case 98-CR-040-001-K.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the Turley Correctional Center as the place of confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 11, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: BOBBY LEE JOHNSON

Case Number: 98-CR-009-001-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of two (2) years, as to Count 2, said term to run concurrently with the term imposed in Northern District of Oklahoma Case 98-CR-040-001-K.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
6. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
7. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: BOBBY LEE JOHNSON
Case Number: 98-CR-009-001-K

RESTITUTION AND FORFEITURE**RESTITUTION**

The defendant shall make restitution in the total amount of \$100. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
E-Z Mart 1002 S. Muskogee Tahlequah OK 74464	\$50
Fin & Feather Resort Rt. 1 Box 194 Gore OK 74435	\$50

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: BOBBY LEE JOHNSON
Case Number: 98-CR-009-001-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except the Court sustained the objection to the 6 level increase related to a specific offense characteristic as outlined in USSG §2B5.1(b)(2).

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 100

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason(s): all victims were not located during investigation. The \$100 amount is for known victims.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

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UNITED STATES DISTRICT COURT

Northern District of Oklahoma
 ENTERED ON DOOR
 DATE 8-12-98

UNITED STATES OF AMERICA

v.

Case Number 98-CR-009-002-K

JIMMY DEAN JOHNSON
 Defendant.

FILED

AUG 12 1998

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

The defendant, JIMMY DEAN JOHNSON, was represented by Michael McGuire.

On motion of the United States the court has dismissed Counts 1 & 3 of the Indictment.

The defendant pleaded guilty to Count 2 of the Indictment, May 1, 1998. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

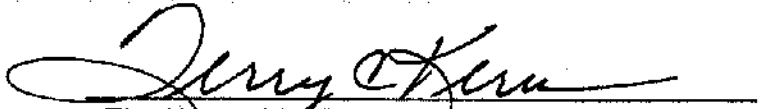
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
8 USC 471 & 2	Counterfeiting Obligations of the United States & Aiding and Abetting	8/13/97	2

As pronounced on August 6, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 2 of the Indictment, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 11 day of August, 1998.


 The Honorable Terry C. Kern, Chief
 United States District Judge

Defendant's SSN: 444-58-1994

Defendant's Date of Birth: 8/8/53

Defendant's residence and mailing address: Box 154, Prue OK 74060

Defendant: JIMMY DEAN JOHNSON
Case Number: 98-CR-009-002-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 3 months, as to Count 2, said term to run concurrently with the sentence imposed in Northern District of Oklahoma Case 98-CR-040-002-K.

The Court makes the following recommendations to the Bureau of Prisons: that the Bureau of Prisons designate the Turley Correctional Center as the place of confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 noon on September 11, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: JIMMY DEAN JOHNSON

Case Number: 98-CR-009-002-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of two (2) years, as to Count 2, said term to run concurrently with the term imposed in Northern District of Oklahoma Case 98-CR-040-002-K.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
6. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
7. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: JIMMY DEAN JOHNSON
Case Number: 98-CR-009-002-K

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$100. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
E-Z Mart 1002 S. Muskogee Tahlequah OK 74464	\$50
Fin & Feather Resort Rt. 1 Box 194 Gore OK 74435	\$50

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: JIMMY DEAN JOHNSON
Case Number: 98-CR-009-002-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except the Court sustained the objection to the 6 level increase related to a specific offense characteristic as outlined in USSG §2B5.1(b)(2).

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 100

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason(s): all victims were not located during investigation. The \$100 amount is for known victims.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED**AUG 10 1998**

UNITED STATES OF AMERICA

Phil Lombardi, Clerk
U.S. DISTRICT COURT

v.

Case Number 98-CR-035-001-Ea

RON ADAMS

Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, RON ADAMS, was represented by Jack Schisler.

On motion of the United States the court has dismissed Counts 1 & 2 of the Information.

The defendant pleaded guilty to Count 3 of the Information, May 4, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
8 USC 2113(b) (Paragraph 2)	Bank Theft	9/22/97	3

As pronounced on August 10, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 25, for Count 3 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 10th day of August, 1998.

Claire V. Eagan

The Honorable Claire V. Eagan
 United States Magistrate Judge

ENTERED ON DOCKET
 DATE 8-11-98

Defendant's SSN: 522-92-6033

Defendant's Date of Birth: 01-31-58

Defendant's mailing address: PO Box 401, Haskell OK 74436

Defendant's residence address: 502 West Skelly Road, Haskell OK 74436

United States District Court)
 Northern District of Oklahoma) SS
 I hereby certify that the foregoing
 is a true copy of the original on file
 in this court.

Phil Lombardi, Clerk

By *Miller*
 Deputy

Defendant: RON ADAMS
Case Number: 98-CR-035-001-Ea

PROBATION

The defendant is hereby placed on probation for a term of three (3) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer. The defendant shall abstain from the consumption of any alcoholic beverage during the period of his probation.
4. The defendant shall serve the first nine(9) months in community confinement, as scheduled, arranged, and approved by the U. S. Probation Office. The defendant may be allowed to maintain employment while in community confinement. The defendant will have credit for 12 & 12 placement since July 7, 1998.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: RON ADAMS
Case Number: 98-CR-035-001-Ea

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 100, as to Count 3. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: RON ADAMS
Case Number: 98-CR-035-001-Ea

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$400. Interest on restitution is waived by the Court.

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Tulsa Federal Employees Credit Union 120 West 3rd Street Tulsa OK 74103	\$400

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Defendant: RON ADAMS
Case Number: 98-CR-035-001-Ea

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	3
Criminal History Category:	VI
Imprisonment Range:	3 months to 9 months
Supervised Release Range:	1 year
Fine Range:	\$ 100 to \$ 5,000
Restitution:	\$ 400

The sentence is within the guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the guidelines.

BTJ

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 7 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 98-CR-033-001-BU

JASON DON COPE
Defendant.

ENTERED ON DOCKET

DATE 8-7-98

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, JASON DON COPE, was represented by Bruce H. Harlton.

The defendant pleaded guilty to Count 1 of the Information, April 30, 1998. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 659	Theft of Interstate Shipment	1/10/98	1

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for Count 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 6th day of August, 1998.

United States District Court
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this court. Phil Lombardi, Clerk

By Besame J. Miller
Deputy

Michael Burrage
The Honorable Michael Burrage
United States District Judge

Defendant's SSN: 444-94-4571

Defendant's Date of Birth: 2/26/75

Defendant's residence and mailing address: 7325 South Yale #116, Tulsa OK 74136

Defendant: JASON DON COPE
Case Number: 98-CR-033-001-BU

PROBATION

The defendant is hereby placed on probation for a term of three (3) years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
4. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of sentencing date. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall pay the fine and cost order associated with Cherokee County Case Number CM 98-335, as directed by the Probation Officer.

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: JASON DON COPE
Case Number: 98-CR-033-001-BU

FINE

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

The defendant shall pay a fine of \$ 1,500, as to Count 1. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: JASON DON COPE
Case Number: 98-CR-033-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	7
Criminal History Category:	II
Imprisonment Range:	2 months to 8 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 500 to \$ 5,000
Restitution:	\$ n/a

The sentence is within the guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the guidelines.

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 7 1998 *rm*

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 98-CR-039-001-BU

BETTINA LEE FRISBY
 Defendant.

ENTERED ON DOCKET
 DATE 8-7-98

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

The defendant, BETTINA LEE FRISBY, was represented by Scott Troy.

The defendant pleaded guilty to count(s) 1 of the Information.

Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1344(1)	Bank Fraud	12/24/97	1

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for count(s) 1 of the Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 6th day of August, 1998.

United States District Court
 Northern District of Oklahoma) SS
 I hereby certify that the foregoing
 is a true copy of the original on file
 in this court. Phil Lombardi, Clerk

By Rosanne J. Miller
 Deputy

Michael Burrage
 The Honorable Michael Burrage
 United States District Judge

Defendant's SSN: 432-08-1903

Defendant's Date of Birth: 07/17/56

Defendant's residence and mailing address: 7745 Greens Avenue #103, Bixby OK 74008

Defendant: BETTINA LEE FRISBY
Case Number: 98-CR-039-001-BU

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 46 months, as to Count 1. Said term to run concurrently with 46 month term imposed in ND/OK Case 97-CR-081-001-BU.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 Noon on September 1, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: BETTINA LEE FRISBY
Case Number: 98-CR-039-001-BU

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years, said term to run concurrently with term imposed in ND/OK Case 97-CR-081-001-BU.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall submit to a search conducted by a United States Probation Officer of her person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.
6. The defendant shall refrain from employment in capacity of Office Manager or similar position, shall refrain from any employment in any capacity working with accounts payable or receivable, and shall further refrain from employment in any position in which she reconciles bank statements, prepares checks, or prepares financial statements.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer. --
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: BETTINA LEE FRISBY
Case Number: 98-CR-039-001-BU

RESTITUTION AND FORFEITURE**RESTITUTION**

The defendant shall make restitution in the total amount of \$160,573.79. Interest on restitution is waived by the Court.

The defendant shall make restitution, jointly and severally with Willie Walter Frisby, to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Chubb Insurance Group 3445 Peachtree Road, N.E., Suite 900 Atlanta, GA 30326-1276	\$100,000
Banc First 141st & Elm Glenpool OK 74033	\$5,400
Holliman, Langholz, Runnells, Holden, Forsman & Sellers 10 E. 3rd Street, Suite 500 Tulsa OK 74103	\$55,173.79

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants, Bettina Frisby and Willie Walter Frisby, has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: BETTINA LEE FRISBY
Case Number: 98-CR-039-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	22
Criminal History Category:	I
Imprisonment Range:	41 months to 51 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 7,500 to \$ 1,000,000
Restitution:	\$ 160,573.79

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BJS

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UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

AUG 7 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 97-CR-081-001-BU

BETTINA LEE FRISBY
Defendant.

ENTERED ON DOCKET

DATE 8-7-98

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, BETTINA LEE FRISBY, was represented by Scott Troy.

The defendant pleaded guilty to Count 1 of the Amended Information, September 25, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1344(a) 2(b)	Bank Fraud & Aiding and Abetting	2/16/96	1

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for Count 1 of the Amended Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 6th day of August, 1998.

United States District Court
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this court. Phil Lombardi, Clerk

Michael Burrage
The Honorable Michael Burrage
United States District Judge

By *Rosanne J. Miller*
Deputy

Defendant's SSN: 432-08-1903

Defendant's Date of Birth: 07/17/56

Defendant's residence and mailing address: 7745 Greens Avenue #103, Bixby OK 74008

Defendant: BETTINA LEE FRISBY
Case Number: 97-CR-081-001-BU

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 48 months as to Count 1. Said term to run concurrently with the term imposed in ND/OK Case 98-CR-039-001-BU.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons 12:00 Noon on September 1, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: BETTINA LEE FRISBY
Case Number: 97-CR-081-001-BU

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years, said term to run concurrently with term imposed in ND/OK Case 98-CR-039-001-BU.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall submit to a search conducted by a United States Probation Officer of her person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.
6. The defendant shall refrain from employment in capacity of Office Manager or similar position, shall refrain from employment in any capacity working with accounts payable or receivable, and shall further refrain from employment in any position in which she reconciles bank statements, prepares checks, or prepares financial statements.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer. —
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: BETTINA LEE FRISBY
Case Number: 97-CR-081-001-BU

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$376,498. Interest on restitution is waived by the Court.

The defendant shall make restitution, jointly and severally with Willie Walter Frisby, to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
PMC Homes 14716 S. Grant Bixby OK 74008	\$376,498

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants, Bettina Frisby and Willie Walter Frisby, has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: BETTINA LEE FRISBY
Case Number: 97-CR-081-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	22
Criminal History Category:	I
Imprisonment Range:	41 months to 51 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 7,500 to \$ 1,000,000
Restitution:	\$ 376,498

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BJS

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

AUG 7 1998 *rm*

Phil Lombardi, Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 97-CR-081-002-BU

WILLIE WALTER FRISBY
 Defendant.

ENTERED ON DOCKET

DATE 8-7-98

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

The defendant, WILLIE WALTER FRISBY, was represented by Jack Gordon, Jr..

The defendant pleaded guilty to Count 2 of the Amended Information, September 25, 1997. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1344(a) & Bank Fraud & Aiding and Abetting 2(a)		6/19/95	2

As pronounced on July 29, 1998, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for Count 2 of the Amended Information, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 6th day of August, 1998.

United States District Court
 Northern District of Oklahoma) SS

I hereby certify that the foregoing
 is a true copy of the original on file
 in this court.

Phil Lombardi, Clerk

By Rosanne J. Miller
Deputy

Michael Burrage
 The Honorable Michael Burrage
 United States District Judge

Defendant's SSN: 432-04-6231

Defendant's Date of Birth: 08/26/53

Defendant's residence and mailing address: 7745 Greens Avenue #103, Bixby OK 74008

Defendant: WILLIE WALTER FRISBY
Case Number: 97-CR-081-002-BU

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 Noon on September 1, 1998.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: WILLIE WALTER FRISBY
Case Number: 97-CR-081-002-BU

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event, later than 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm, destructive device, or other dangerous weapon.
4. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state, or local crime. In addition:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to urinalysis testing as directed by the U. S. Probation Office.

Defendant: WILLIE WALTER FRISBY
Case Number: 97-CR-081-002-BU

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$537,071.79. Interest on restitution is waived by the Court.

The defendant shall make restitution jointly and severally with Bettina Frisby, to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
PMC Homes 14716 S. Grant Bixby OK 74008	\$376,498
Chubb Insurance Group 3445 Peachtree Road N.E., Suite 900 Atlanta, GA 30326-1276	\$100,000
Holliman, Langholz, Runnells, Holden, Forsman and Sellers 10 E. 3rd Street, Suite 500 Tulsa OK 74103	\$55,173.79
BancFirst 141st & Elm Glenpool OK 74033	\$5,400
	--

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, except that no further payment shall be required after the sum of the amounts actually paid by all defendants, Bettina Frisby and Willie Walter Frisby, has fully covered the compensable injury.

If a victim has received compensation from insurance or any other source with respect to a loss, any restitution ordered shall be paid to the person who is a victim before any restitution is paid to any such provider of compensation.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: WILLIE WALTER FRISBY
Case Number: 97-CR-081-002-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	18
Criminal History Category:	I
Imprisonment Range:	27 months to 33 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 6,000 to \$ 1,000,000
Restitution:	\$ 537,071.79

The fine is waived or is below the guideline range because of the defendant's inability to pay.

Full restitution is not ordered for the following reason(s): because of the defendant's inability to pay.

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

BJS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 5 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEMAREO LAMONT DAVIS,

Defendant.

No. 93-CR-88-B ✓
97-CV-239-B

ENTERED ON DOCKET

DATE 8-10-98

ORDER

Before the Court is the Defendant Demareo Lamont Davis' motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Docket #83) together with his accompanying memorandum (#84). The Plaintiff United States of America has filed its response brief (#87). After reviewing the entire record in this case, the Court has determined that an evidentiary hearing is not necessary and that the motion lacks merit and should be denied.

BACKGROUND

This case arose out of an attempted armed robbery of the McDonnell-Douglas Federal Credit Union in Tulsa, Oklahoma on May 13, 1993. Two men, wearing hoods over their heads, entered the credit union; one of the men was armed and fired a handgun several times at the security guard. One bullet hit the guard's desk, and the security guard returned fire, wounding the robber shooting the gun in the chest and the other man in the buttocks. The men fled the scene in a stolen car. The police later recovered the car and bloodstained clothing, which was tied to Defendant and co-defendant Dwayne Buford Reed through DNA testing. Shortly after the incident, Defendant was arrested at a Tulsa hospital where he had sought treatment for a gunshot wound to the chest.

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Defendant and co-defendant Reed were convicted by a jury of: conspiracy to commit armed robbery of a credit union, in violation of 18 U.S.C. §§ 371, 2113(a) and (d) (count one); entering a federally insured credit union with the intent to commit armed robbery, and aiding and abetting in this offense, in violation of 18 U.S.C. §§ 2 and 2113(a) and (d) (count two); and use or carrying of a firearm during the commission of a crime of violence, and aiding and abetting in this offense, in violation of 18 U.S.C. §§ 2 and 924(c)(1) (count three).

On January 21, 1994, the Court held sentencing proceedings at which defense counsel presented objections to the Presentence Report ("PSR"). After hearing arguments from both sides, the Court concluded that aggravating circumstances — specifically, Defendant's discharge of his firearm three times at the security guard and bank customers with the intent of causing death or great bodily harm — justified an upward departure of seven levels from the normal range specified under the United States Sentencing Guidelines (1993) ("sentencing guidelines" or "U.S.S.G."). Therefore, the Court sentenced Defendant to 60 months on count one, 96 months on count two, such terms to run concurrently, and to 60 months on count three, to run consecutively, for a total of 156 months, to be followed by five years of supervised release. Defendant was ordered to pay a fine of \$1,000 and restitution in the amount of \$1,097, jointly and severally with co-defendant's similar obligation.

Defendant appealed, raising three grounds of error: (1) admission of testimony by the government's DNA expert; (2) admission of a sample of Defendant's blood; and (3) pronouncement of a longer sentence for Defendant than for co-defendant Reed. The Court of Appeals for the Tenth Circuit affirmed Defendant's conviction on November 15, 1994. United States v. Davis, 40 F.3d 1069 (10th Cir. 1994). The United States Supreme Court denied Defendant's petition for writ of certiorari on April 24, 1995.

On March 18, 1997, Defendant proceeding *pro se* filed this § 2255 motion claiming ineffective assistance of counsel for failing to object/properly object at sentencing and for failing to appeal/properly argue on appeal that the upward departure from the sentencing guidelines range for discharge of a firearm with intent to inflict serious bodily harm was an incorrect application of the guidelines and constituted "double counting" because Defendant was also sentenced for using and carrying a firearm under § 924(c)(1). (#83 at 5; #84 at 7).

The government responds that defense counsel did vigorously object to the upward departure at sentencing and raised similar arguments to those now propounded by Defendant; in support, the government cites the sentencing transcript. In addition, the government contends that the upward departure was legal and appropriate, and that counsel did raise a sentencing issue on appeal albeit couched in terms of the disparate terms of imprisonment given Defendant and his co-defendant. The government attaches to its response the affidavit of Jackson M. Zanerhaft, who represented Defendant at trial, sentencing and on direct appeal. Mr. Zanerhaft states that he opposed the proposed upward departure at sentencing, and that on appeal he made the strategic decision to phrase the sentencing issue in terms of the disparate treatment for the co-defendants. (#87, Attached Affidavit at 2).

After the government filed its response, Defendant moved for a copy of the sentencing transcript to be provided him at government expense in order for him to meet the government's arguments. On May 12, 1998, the Court directed the Clerk to mail a copy of the sentencing transcript to Defendant, and allowed Defendant an additional 30 days to file his reply to the government's response. To date, however, although more than 80 days have passed since entry of that Order, Defendant has not filed a reply brief.

ANALYSIS

Defendant claims that trial counsel was constitutionally deficient for not properly objecting to the upward departure under the sentencing guidelines based on Defendant's discharge of a firearm. Defendant argues that the upward departure was impermissible because, in effect, it punished him twice for the offense of using a firearm. Defendant cites an application note to the sentencing guidelines which provides that a defendant's use of a firearm is not to be considered in calculating the base offense level for armed robbery if the defendant also is convicted under § 924(c)(1) of "using or carrying" a firearm (U.S.S.G. § 2K2.4 comment. n. 2). Defendant also cites United States v. Bond, 22 F.3d 662 (6th Cir. 1994) and United States v. Blake, 52 F.3d 138 (10th Cir. 1995) to support his argument that the upward departure was improper.

To establish ineffective assistance of counsel a defendant must show that his counsel's performance was deficient and that the deficient performance was prejudicial. Strickland v. Washington, 466 U.S. 668, 687 (1984); Osborn v. Shillinger, 997 F.2d 1324, 1328 (10th Cir. 1993). A defendant can establish the first prong by showing that counsel performed below the level expected from a reasonably competent attorney in criminal cases. Strickland, 466 U.S. at 687-88. To establish the second prong, a defendant must show that this deficient performance prejudiced the defense, to the extent that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. See also Lockhart v. Fretwell, 506 U.S. 364, 369-70 (1993).

There is a "strong presumption that counsel's conduct falls within the range of reasonable professional assistance." Strickland, 466 U.S. at 688. In making this determination, a court must

"judge . . . [a] counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Id., at 690. Moreover, review of counsel's performance must be highly deferential. "[I]t is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Id. at 689.

The record reveals that at the sentencing hearing Defendant's trial counsel, Mr. Zanerhaft, objected to the proposed upward departure on several grounds. He argued at length that the evidence did not support the finding that Defendant was the robber who actually fired the weapon (Tr. of Sent. Hr'g held Jan. 21, 1994 at 10-11). In addition, counsel argued that because Defendant was separately convicted of using a firearm under § 924(c), he should not also be punished for the discharge of that firearm with respect to the substantive offense. (Tr. of Sent. Hr'g held Jan. 21, 1994 at 18-19). This is precisely the argument that Defendant makes in his § 2255 motion. Therefore, counsel did not fail to object to the upward departure, as Defendant contends.

After hearing arguments at the sentencing proceedings, the Court concluded that the evidence demonstrated Defendant was the robber who attempted to shoot the security guard and further that he would have succeeded in killing or severely injuring the guard had a desk not stopped the bullet. Thus, the Court found that an upward departure was justified because of the discharge of the weapon for the purposes of killing or disabling the guard and effecting Defendant's escape. The guidelines range before upward departure provided a sentencing range of 41-51 months on counts one and two. After upward departure, the guidelines range was 87-108 months, and the Court sentenced Defendant to 90 months on count two (the attempted armed robbery count). When added to the mandatory 60 months on count three (the § 924(c)(1) violation), Defendant received a total sentence of 157 months. The Court noted that the maximum statutory punishment for the three counts on which

Defendant was convicted was 384 months. Thus, even after the upward departure, Defendant's sentence of 157 months is still far less than the statutory maximum of 384 months.

Although it is clear that defense counsel ably argued against the upward departure, Defendant would not be entitled to relief in any event because the upward departure did not constitute improper double counting as Defendant alleges. Impermissible double counting or cumulative sentencing "occurs when the same conduct on the part of the defendant is used to support separate increases under separate enhancement provisions which necessarily overlap, are indistinct, and serve identical purposes." United States v. Blake, 59 F.3d 138, 140 (10th Cir.1995) (quoting United States v. Flinn, 18 F.3d 826, 829 (10th Cir.1994)). Defendant's base offense level was not enhanced by seven levels in this case. The Court's exchange with Probation Officer Shidell demonstrates the Court's understanding that an enhancement for discharge of a firearm was precluded by the § 924(c) conviction. (Tr. of Sent. Hr'g held Jan. 21, 1994 at 13). The Court clearly enunciated that it had instead determined that an upward departure was justified in this case. (Tr. of Sent. Hr'g held Jan. 21, 1994 at 26). Accordingly, Defendant's citation of a Sixth Circuit case¹ which dealt with enhancements and did not involve a separate conviction under § 924(c) is not persuasive on the issue of whether an upward departure, as distinguished from a guideline enhancement, is proper.

A review of the record demonstrates that the Court properly utilized its discretion to depart upwardly from the guidelines range; thus, defense counsel's alleged errors at sentencing and on appeal could not have prejudiced Defendant. A court may depart from the applicable sentencing range if it "finds that there exists an aggravating or mitigating circumstance of a kind, or to a degree,

¹United States v. Bond, 22 F3d 662 (6th Cir. 1994).

not adequately taken into consideration" by the sentencing guidelines. 18 U.S.C. § 3553(b) (1994); Koon v. United States, 518 U.S. 81, 92 (1996). "Before a departure is permitted, certain aspects of the case must be found unusual enough for it to fall outside the heartland of cases in the Guideline." Id. at 93. Certain factors may never serve as bases for departure (race, sex, national origin, creed, religion, socio-economic status, U.S.S.G. § 5H1.10; lack of guidance as a youth, § 5H1.12; drug or alcohol dependence, § 5H1.4; and economic hardship, § 5K2.12). With the exception of those listed factors, the guidelines do "not intend to limit the kinds of factors, whether or not mentioned anywhere else in the guidelines, that could constitute grounds for departure in an unusual case." U.S.S.G. ch. 1, pt. A, intro. comment. 4(b).

The degree of departure also must be reasonable, and the court should articulate its reasons for making the departure. United States v. Collins, 122 F.3d 1297, 1308-09 (10th Cir. 1997). Determining the reasonableness of a departure requires consideration of the court's reasons for imposing the particular sentence together with factors such as: "the seriousness of the offense, the need for just punishment, deterrence, protection of the public, correctional treatment, the sentencing pattern of the Guidelines, the policy statements contained in the Guidelines, and the need to avoid unwarranted sentencing disparities." United States v. White, 893 F.2d 276, 278 (10th Cir. 1990) (citing 18 U.S.C. §§ 3742(e)(3) and 3553(a)).

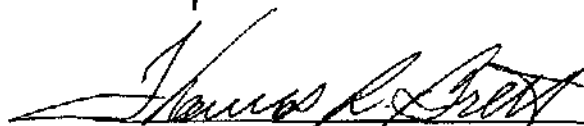
Here, the Court did not base the upward departure on any impermissible considerations. Instead, the Court thoroughly articulated its reasons for departure as the aggravating circumstances evidenced by Defendant firing the weapon several times at the scene of the robbery with the purpose of effecting either the death or disabling of the security guard. (Tr. of Sent. Hr'g held Jan. 21, 1994 at 25). The Court viewed the deliberate firing of the gun at the guard as sufficiently serious to justify

a longer period of imprisonment than would be merited by the mere brandishment or carrying of a weapon as is prohibited under § 924(c). The Court properly made this determination based on its assessment of the facts of this case as "informed by its vantage point and day-to-day experience in criminal sentencing." Koon at 97. The amount of the departure, approximately 40 months, was reasonable given the seriousness of Defendant's conduct.

Accordingly, in view of defense counsel's zealous representation of Defendant at sentencing, including his articulation of cogent objections to the proposed upward departure, the Court finds that counsel acted well within the level expected from a reasonably competent attorney in criminal cases. See Strickland, 466 U.S. at 687-88. Further, because the Court finds that the upward departure was justified in view of the aggravating factors present in this case, defense counsel's failure to specifically appeal the sentence as constituting an impermissible double-counting was not error. Thus, Defendant's claims of ineffective assistance of counsel at sentencing and on appeal are without merit and the Court concludes Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 should be denied.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (docket #83) is denied.

SO ORDERED THIS 5th day of Aug, 1998.


THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

FILED

AUG 5 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEMAREO LAMONT DAVIS,

Defendant.

No. 93-CR-88-B ✓
97-CV-239-B

ENTERED ON DOCKET

DATE 8-6-98

JUDGMENT

This matter came before the Court upon Defendant's motion to vacate set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Court duly considered the issues and rendered a decision herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

SO ORDERED THIS 5th day of Aug, 1998.


THOMAS R. BRETT, Senior Judge
UNITED STATES DISTRICT COURT

109

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 6 1998

UNITED STATES OF AMERICA,

Plaintiff,

V.

THOMAS S. RHOADES, et al.

Defendants.

Phil Lombardi, Clerk
U.S. DISTRICT COURT

No. 97-CR-98-C

ENTERED ON DOCKET

DATE 8/6/98

ORDER

This matter comes on for consideration of Plaintiff's Motion to Dismiss the Indictment in this cause as to Defendant Thomas S. Rhoades, by reason of his death.

For good cause shown, it is ORDERED that the Indictment in this cause be and the same is hereby dismissed INSOFAR AND ONLY INSOFAR, as it identifies Thomas S. Rhoades as a Defendant.

S/H. DALE COCK

H. DALE COOK
SENIOR UNITED STATES DISTRICT JUDGE

United States District Court }
Northern District of Oklahoma } SS
I hereby certify that the foregoing
is a true copy of the original on file
in this court.

Phil Lombardi, Clerk

By Dev M^c Culbough
Director

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 04 1998

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA
Plaintiff

VS

SHAWNA L. MARTIN
Defendant

Case Number 95-CR-108-001-B

ENTERED ON DOCKET

DATE **AUG 5 1998**

AMENDED ORDER REVOKING SUPERVISED RELEASE

Now on this 6th day of May 1998, this cause comes on for sentencing concerning allegations that Martin violated conditions of supervised release as set out in the Petition on Supervised Release filed on November 19, 1997. Martin is present in person and represented by counsel, Jack Schisler. The Government is represented by Assistant United States Attorney, Kevin Leitch and the United States Probation Office is represented by David Plunkett.

On December 11, 1997, a Revocation Hearing was held regarding the allegations noted in the Petition on Supervised Release, filed on November 19, 1997, said allegations being that the defendant committed law violations during her period of supervised release.

Martin stipulated to the violations as alleged in the petition. The Court found that Martin was in violation of the conditions of her release and passed sentencing to May 6, 1998, to allow time for Martin to address other legal issues. The defendant's additional criminal activities, subsequent to her Revocation Hearing, were noted in the Sentencing Memorandum and were addressed during the Sentencing Hearing. The Court proceeded with sentencing and found that the original conviction occurred after November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines is applicable. Further, the Court found that the violation of supervised release constituted Grade B violations in accordance with USSG § 7B1.1(a)(2), and Martin's Criminal History Category of III is applicable for determining the imprisonment range. In addition, the Court found that a Grade B violation and a Criminal History Category of III establish a revocation imprisonment range of eight (8) to fourteen

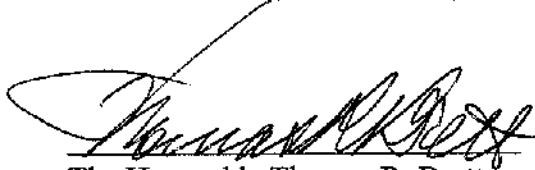
(14) months in accordance with USSG § 7B1.4(a) and 18 U.S.C. § 3583(e). In consideration of these findings and pursuant to U.S. vs. Lee, 757 F.2d 770 (10th Cir. 1992), in which the circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following sentence is ordered:

It is the judgment of the Court that the defendant, Shawna L. Martin, is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of eight (8) months.

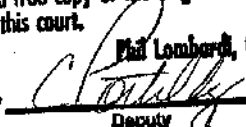
Upon release from imprisonment, Martin shall be placed on supervised release for a term of 2 years. Within 72 hours of release from custody of the Bureau of Prisons, Martin shall report in person to the probation office in the district to which she is released. While on supervised release, Martin shall not commit another federal, state, or local crime, shall comply with the standard conditions of supervised release that have been adopted by this Court, and shall comply with the following additional conditions:

1. Martin shall not own or possess a firearm or destructive device.
2. Martin shall abide by the Special Search and Seizure Condition as enumerated in Miscellaneous Order M-128, filed with the Clerk of the Court on May 25, 1995.
3. Martin is prohibited from maintaining any bank account during her period of supervised release, and may conduct business on a cash basis only.
4. Martin shall pay the balance of restitution in the amount of \$2,856. This amount will be paid immediately. Any amount not paid immediately shall be paid while the defendant is in custody through the Bureau of Prisons' Inmate Financial Responsibility Program, with any remaining balance to be paid during the term of Supervised Release.

Martin shall report to the designated Bureau of Prisons institution on June 22, 1998, by 3:00 p.m.


The Honorable Thomas R. Brett
Senior United States District Judge

8-3-98

United States District Court
Northern District of Oklahoma } ss
I hereby certify that the foregoing
is a true copy of the original on file
in this court.
By  Phil Lombardi, Clerk
Deputy

ENTERED ON DOCKET

DATE 8-4-98

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

RICHARD JAMES KESSINGER,)

Defendant.)

F I L E D

AUG - 3 1998 *12*

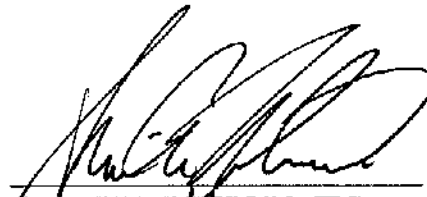
Phil Lombardi, Clerk
U.S. DISTRICT COURT

No. 98-CR-70-H

ORDER OF DISMISSAL

It is hereby **ORDERED, ADJUDGED and DECREED**, that, based upon the Motion of the government and to best meet the ends of justice, RICHARD JAMES KESSINGER is hereby dismissed as a defendant from Case No. 98-CR-70-H.

IT IS SO ORDERED.


SVEN ERIK HOLMES
United States District Judge